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Counsel for Movant Anthony Hernandez Valadez

# IN THE UNITED STATES BANKRUPTCY COURT FOR THE DISTRICT OF NEW JERSEY

In re:	:	Chapter 11
LTL MANAGEMENT LLC,	:	Case No. 21-30589
Debtor.	:	
	<b>:</b>	

#### **DECLARATION OF JOSEPH D. SATTERLEY**

Pursuant to 28 U.S.C. § 1746, I, Joseph D. Satterley, declare under penalty of perjury as follows:

I am a partner in the law firm of Kazan, McClain, Satterley & Greenwood, A
 Professional Law Corporation ("<u>Kazan Law</u>"), located at 55 Harrison Street, Suite 400, Oakland,
 California 94607, and have been duly admitted to practice law in the States of Pennsylvania,

Kentucky, and California, the United States Supreme Court, the U.S. District Court for the Eastern and Western Districts of Kentucky, and the U.S. Court of Appeals for the Third, Sixth, Eighth, and Ninth Circuits. I am admitted as counsel *pro hac vice* for certain mesothelioma claimants in this action and have an application pending for admission as *pro hac vice* counsel for Movant Anthony Hernandez Valadez ("Movant" or "Mr. Valadez").

- 2. Unless otherwise stated in this Declaration, I have personal knowledge of the facts set forth herein. If called as a witness, I would testify as to those facts.
- 3. I submit this Declaration in support of Movant's motion for the entry of an order pursuant to Section 362(d)(1) of the Bankruptcy Code, waiving the stay of Fed. R. Bankr. P. 4001(a)(3), granting him relief from the Preliminary Injunction as to non-debtors Johnson & Johnson ("J&J"), Johnson & Johnson Consumer Inc. ("New JJCI"), and retailers Albertsons Companies, Inc., Lucky Stores, Inc., Safeway Inc., Save Mart Supermarkets, Target Corporation, and Walmart Inc. (collectively, "Retailers"), or such other and further relief as the Court deems just and proper, in this Chapter 11 case of LTL Management, LLC, the above-captioned debtor and debtor-in-possession ("the "Debtor"). Alternatively, Movant seeks relief from the Preliminary Injunction to allow him to conduct discovery against J&J, New JJCI, Retailers, and non-parties to collect and preserve evidence and testimony pertinent to Movant's claims, including any treating medical facilities who possesses Movant's pathology material.
- 4. For 25 years, I have represented plaintiffs afflicted with terminal mesothelioma and other asbestos-related diseases. Since 2016, I have filed asbestos-related cases against J&J and other entities responsible for the marketing, distribution, sale, and design of Johnson's Baby Powder talc. To date, I have tried six cases to verdict against J&J on behalf of plaintiffs afflicted

with mesothelioma in New Jersey, California, and Kentucky. As a result, I have personally interacted with J&J's local and national counsel in all stages of litigation for nearly six years.

- 5. On February 25, 2022, this Court filed its Memorandum Opinion Granting Preliminary Injunction and Resolving Adversary Proceeding in Debtor's Favor. [Dkt. No. 1573.] That opinion was incorporated fully by reference in this Court's Order (I) Declaring That the Automatic Stay Applies to Certain Actions Against Non-Debtors, and (II) Preliminarily Enjoining Certain Actions (the "Preliminary Injunction"). [Dkt. No. 1635.] The Preliminary Injunction prohibits and enjoins current and prospective mesothelioma plaintiffs from commencing or continuing to prosecute a personal-injury action against J&J, New JJCI, and the Retailers (collectively, "Non-Debtors").
- 6. I represent Mr. Valadez. He is 23 years old and afflicted with a terminal disease called pericardial mesothelioma, an asbestos-caused cancer. I am the Kazan Law partner charged with all aspects of Mr. Valadez's case, including case management and discovery. But for the Preliminary Injunction, Mr. Valadez would have filed a lawsuit in Alameda County Superior Court against Non-Debtors for his exposure to asbestos and asbestiform fibers from his and his family's use of Johnson's Baby Powder talc.
- 7. Since the Preliminary Injunction, I invited Non-Debtors to negotiate in good faith to promptly resolve Mr. Valadez's claims against them. Attached hereto as **Exhibit A** is a true and correct copy of my email to opposing counsel representing Non-Debtors, dated April 20, 2022. In my email, I attached a letter that detailed Mr. Valadez's exposure to Johnson's Baby Powder, his claims against Non-Debtors, the course of his disease, and damages. I also included exhibits in support of each assertion stated in the letter. I told opposing counsel that Mr. Valadez is interested in an efficient and fair resolution for his terminal pericardial mesothelioma. As an

alternative to resolution, I asked Non-Debtors whether they are amenable to lifting the Preliminary Injunction to allow Mr. Valadez to collect evidence. Opposing counsel did not respond to my correspondence.

- 8. On May 10, 2022, I sent a follow-up email regarding Mr. Valadez's case. In that email, I attached the report of forensic economist Robert Johnson showing that Mr. Valadez's economic loss (not including medical bills) is over \$3.6 million. Attached hereto as **Exhibit B** is a true and correct copy of my email to opposing counsel, along with a copy of the Economic Impact Report attached thereto.
- 9. To date, I have not received a response from Non-Debtors about resolving Mr. Valadez's case or stipulating that Mr. Valadez may file suit against them in Alameda County Superior Court despite the Preliminary Injunction. This is not surprising. As previously mentioned, I have filed and tried cases against J&J involving plaintiffs afflicted with terminal mesothelioma. In my experience, J&J, despite its talking points, is not interested in efficient resolution of mesothelioma claims. J&J's intransigence in settling cases for their fair value is the reason that I have tried many cases against J&J, all of which eventually went to verdict. For those six cases from 2018, 2019, 2020, and 2021, that eventually went to verdict, J&J refused to discuss or negotiate any of them prior to going to trial. J&J's position is that it will not negotiate Kazan Law mesothelioma cases until a stay is lifted or all ovarian cases are settled.
- 10. As a result of Non-Debtors refusing to resolve this matter or otherwise stipulate to lifting the Preliminary Injunction, Mr. Valadez now moves this Court for an order granting him relief from the Preliminary Injunction.
- 11. The Preliminary Injunction precludes Mr. Valadez from gathering evidence from Non-Debtors or any other non-party. But for the Preliminary Injunction, Mr. Valadez would have

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filed a lawsuit in Alameda County Superior Court against Non-Debtors for his exposure to asbestos and asbestiform fibers from Johnson's Baby Powder talc. Because he is prohibited and enjoined from commencing a personal-injury action, Mr. Valadez cannot use the subpoena powers of the Alameda County Superior Court to gather and preserve evidence. Based on my day-to-day involvement in Mr. Valadez's case, I know that the facilities treating Mr. Valadez for his pericardial mesothelioma, Stanford Hospital and Stanford Cancer Center, have refused to release Mr. Valadez's pathology blocks for testing absent a lawful subpoena or court order. Because he has no pending personal-injury action, Mr. Valadez cannot use the powers of the Alameda County Superior Court to either subpoena the blocks from the treating hospitals or otherwise obtain a court order compelling those facilities to release the blocks. Under California law, Mr. Valadez has to file suit to get the subpoena powers of the Alameda County Superior Court. And he cannot do so absent an order from this Court granting him relief from the Preliminary Injunction so he can file suit against Non-Debtors.

12. Leah Backhus, M.D., is Mr. Valadez's treating cardiothoracic surgeon. In her declaration in support of Mr. Valadez's motion, Dr. Backhus opines that there is substantial medical doubt of Mr. Valadez's survival beyond six months from May 22, 2022. If this Court grants his motion and based on my experience litigating asbestos cases in Alameda County Superior Court, Mr. Valadez may promptly file a complaint in Alameda County Superior Court and obtain an order pursuant to California Code of Civil Procedure section 36(d) that expedites discovery and sets his trial by as early as October 2022. Further, the Alameda County Superior Court is very familiar with asbestos talc cases pertaining to Johnson's Baby Powder and has already ruled on numerous motions in limine that the parties typically file in such cases and page-and-line designations of key witnesses including Dr. Alice Blount and J&J corporate

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witnesses Dr. John Hopkins, Danielle Devine, Nancy Musco, Michael Rosolowsky, and Frederick Koberna.

- 13. Pursuant to Alameda County Local Rule 3.260, all asbestos cases are assigned for all pre-trial purposes to a dedicated department. Presently, Judge Jo-Lynne Q. Lee is the asbestos coordination judge in Alameda County Superior Court. It has also been my experience that Judge Lee assigns asbestos cases to trial judges who have experience in presiding over such matters.
- 14. Permitting Mr. Valadez to initiate a state court personal-injury action will result in a complete resolution of the issue of Non-Debtors' alleged liability to Mr. Valadez for his mesothelioma stemming from his substantial exposures to asbestiform fibers from Johnson's Baby Powder talc. If allowed to file suit in Alameda County Superior Court, Mr. Valadez would allege that Non-Debtors are in the chain of distribution of Johnson's Baby Powder. Under California law, parties in a defective product's chain of distribution may be held jointly and severally liable for the injured plaintiff's full damages without a showing of negligence.
- against Non-Debtors would not interfere with the bankruptcy case. Mr. Valadez has direct claims against Non-Debtors arising from each of their own conduct. Mr. Valadez has an independent claim against J&J and New JJCI because they are responsible for the manufacture, design, distribution, and sale of Johnson's Baby Powder. J&J also made all health and safety policy decisions with regard to asbestos and talc products. Mr. Valadez also has an independent claim against Retailers because they supplied Johnson's Baby Powder talc to him and his family members.
- 16. Attached hereto as **Exhibit C** is a true and correct copy of "A Backgrounder on Talc and Talc Based Powders" by J&J employee Lorena Weber Telofski, Scientific Engagement

Leader, Baby Skincare, North America. J&J produced this document in response to discovery in asbestos cases involving mesothelioma clients of Kazan Law. Further, this document was admitted in a case I tried to verdict against J&J in *Prudencio*.<sup>1</sup>

- 17. Attached hereto as **Exhibit D** is a true and correct copy of the relevant excerpts from the Reporter's Transcripts of Trial Proceedings in *Prudencio*, taken on June 17 and 30, July 1, and 8, 2021.
- 18. Attached hereto as **Exhibit E** is a true and correct copy of "Adding TEM to the Global Talc Specification" by J&J employee Timothy J. McCarthy, Ph.D., DABT, Director, Toxicology, Baby R&D and Product Stewardship. J&J produced this document in response to discovery in asbestos cases involving mesothelioma clients of Kazan Law. Further, this document was admitted at trial against J&J in *Prudencio*.
- 19. Attached hereto as **Exhibit F** is a true and correct copy of Cyprus Ore Reserve Evaluation Preliminary Summary. This document was admitted at trial against J&J in *Prudencio*.
- 20. Attached hereto as **Exhibit G** is a true and correct copy of Interoffice Correspondence from Munro to Kerstetter re: "Cyprus Ore Reserves Arsenic & Tremolite," dated March 25, 1992. This document was admitted at trial against J&J in *Prudencio*.
- 21. Attached hereto as **Exhibit H** is a true and correct copy of the letter from Dr. Alice Blount to Raymond Hatcher, dated April 23, 1998. This document was admitted at trial against J&J in *Prudencio*.
- 22. Attached hereto as **Exhibit I** is a true and correct copy of Technical Report from Crouse to Pier re: "Analysis of Fibrous Material from Argonaut Waste Rock," dated May 23, 2002. This document was admitted at trial against J&J in *Prudencio*.

<sup>&</sup>lt;sup>1</sup> Prudencio v. Johnson & Johnson, et al., Superior Court of California, County of Alameda, Case No. RG20061303 ("<u>Prudencio"</u>).

- 23. Attached hereto as **Exhibit J** is a true and correct copy of the fax and letter from Monseau to Mann, dated February 24, 2004. This document was admitted at trial against J&J in *Prudencio*.
- 24. Attached hereto as **Exhibit K** is a true and correct copy of AMA Analytical Services, Inc., Certificate of Analysis. This document was admitted at trial against J&J in *Prudencio*.
- 25. Attached hereto as **Exhibit L** is a true and correct copy of Blount, A.M., *Amphibole Content of Cosmetic and Pharmaceutical Talcs* (1991) 94 Environmental Health Perspectives 225, with sample key. This document was admitted at trial against J&J in *Prudencio*.
- 26. Attached hereto as **Exhibit M** is a true and correct copy of the report from Zeitz (Windsor Minerals) entitled "New Reagent Systems Plant Trial at Windsor Minerals, Inc.," dated May 14, 1974. This document was admitted at trial against J&J in *Prudencio*.
- 27. Attached hereto as **Exhibit N** is a true and correct copy of Exhibit 5 to the transcript of Alice Blount's deposition testimony in *Ingham v. Johnson & Johnson*. This document was admitted at trial against J&J in *Prudencio*.
- 28. Attached hereto as **Exhibit O** is a true and correct copy of a J&J memorandum from Steinberg to Dr. Hildick-Smith re: "Johnson's Baby Powder Talc Aspiration," dated June 17, 1966. This document was admitted at trial against J&J in *Prudencio*.
- 29. Attached hereto as **Exhibit P** is a true and correct copy of emails between Telofski, Mann, and Sterchele re: "JB Powder w China Talc," dated June 19, 29, and 30, 2003. This document was admitted at trial against J&J in *Prudencio*.

- 30. Attached hereto as **Exhibit Q** is a true and correct copy of "Johnson's Baby Book." This document was admitted at trial against J&J in *Prudencio*.
- 31. Attached hereto as **Exhibit R** is a true and correct copy of a J&J memorandum from Ashton to Dr. Hildick-Smith re: Alternate Domestic Talc Sources File No. 101, dated April 9, 1969. This document was admitted at trial against J&J in *Prudencio*.
- 32. Attached hereto as **Exhibit S** is a true and correct copy of a J&J memorandum from Dr. Thompson to Ashton re: Alternate Domestic Talc Sources, dated April 15, 1969. This document was admitted at trial against J&J in *Prudencio*.
- 33. Attached hereto as **Exhibit T** is a true and correct copy of a J&J memorandum from Ashton to Lee re: "Notes on Visit to Denver Area March 25 thru March 27, 1974," dated April 4, 1974. This document was admitted at trial against J&J in *Prudencio*.
- 34. Attached hereto as **Exhibit U** is a true and correct copy of a J&J memorandum from Wells to Callum re: "Johnson's Baby Powder Review of Consumer Research," dated February 13, 1973. This document was admitted at trial against J&J in *Prudencio*.
- 35. Attached hereto as **Exhibit V** is a true and correct copy of J&J's marketing pamphlet, "What you want to know about Johnson's Baby Powder." This document was admitted at trial against J&J in *Prudencio*.
- 36. Attached hereto as **Exhibit W** is a true and correct copy of J&J's 2018 posting on Twitter. This document was admitted at trial against J&J in *Prudencio*.
- 37. Attached hereto as **Exhibit X** is a true and correct copy of Minutes of the "Cosmetic, Toiletry and Fragrance Association Task Force on Round Robin Testing of Consumer Talcum Products for Asbestiform Amphibole Minerals," held on May 17, 1977. This document was admitted at trial against J&J in *Prudencio*.

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38. Attached hereto as **Exhibit Y** is a true and correct copy of J&J's Standard Test

Method 7024 B re: "Analysis of Powdered Talc for Asbestiform Minerals by Transmission

Electron Microscopy," dated March 8, 1989. This document was admitted at trial against J&J in

Prudencio.

39. Despite J&J's statements that their talc never contained asbestos, there is

extensive documentary evidence from J&J's files, prior to Mr. Valadez's birth, showing asbestos

and asbestiform fibers in their product.

40. Attached hereto as **Exhibit Z** is a true and correct copy of Mr. Valadez's genetic

testing results. In the *Prudencio* trial, J&J argued that ALK is a genetic cause of mesothelioma.

The jury in *Prudencio* rejected J&J's genetic defense.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true

and correct to the best of my knowledge and belief. I executed this Declaration on May 24, 2022

at Oakland, California.

By:

/s/ Joseph D. Satterley

JOSEPH D. SATTERLEY

# Exhibit A

#### **Ian Rivamonte**

From: Joseph D. Satterley

Sent: Wednesday, April 20, 2022 12:57 PM

**To:** allison.brown@skadden.com; acalfo@kslaw.com; 'Murdica, James'; Gordon, Gregory M.

**Cc:** lan Rivamonte; Denyse F. Clancy; Steven Kazan

**Subject:** Anthony Hernandez-Valadez - J&J et al

Attachments: Anthony Hernandez-Valadez 4-20-22.pdf; Valadez Exhibits.pdf

Counsel,

Please see attached correspondence regarding Mr. Hernandez-Valadez.

Call me at your convenience.

Sincerely,

Joe



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# Kazan, McClain, Satterley & Greenwood™

A Professional Law Corporation
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Joseph D. Satterley jsatterley@kazanlaw.com

April 20, 2022

#### Via Electronic Mail Only

Gregory M. Gordon Jones Day 2727 North Harwood St., Ste. 500 Dallas, TX 75201-1515 gmgordon@jonesday.com

Alexander Calfo King & Spalding LLP 633 West Fifth St., Ste. 1600 Los Angeles, CA 90071 acalfo@kslaw.com Allison M. Brown Skadden, Arps, Slate, Meagher & Flom LLP One Manhattan West New York, NY 10001-8602 allison.brown@skadden.com

Jim F. Murdica
Barnes & Thornburg LLP
2029 Century Park East, Ste. 300
Los Angeles, CA 90067
imurdica@btlaw.com

Re:

Anthony M. Hernandez-Valadez

Your Clients: J&J, JJCI, LTL, SAFEWAY, LUCKY, TARGET and WALMART

#### Dear Counsel:

I write to inform you that I have been retained to represent Anthony Hernandez-Valadez. He is only 23 years old and has been diagnosed with malignant pericardial mesothelioma. His only exposure to asbestos was from Johnson's Baby Powder talc. I share the case specifics below and I invite your clients to negotiate in good faith to resolve this case immediately.

The liability picture is straightforward. Beginning when he was born on September 23, 1998 and through adulthood, Anthony was exposed to asbestiform fibers from his and his family's personal, daily use of Johnson's Baby Powder talc. These exposures contributed to



his risk of developing the mesothelioma from which he now suffers. Because of his disease and the worsening symptoms associated with it, Anthony can no longer go to school or work.

#### **Exposure**

Anna Camacho is Anthony's mother. She<sup>1</sup> and Anthony<sup>2</sup> are prepared to give sworn testimony describing Anthony's daily exposures to Johnson's Baby Powder talc. I invite your clients to take their depositions.

When Anthony was a baby, Anna regularly used a lot of Johnson's Baby Powder talc on him every day, multiple times each day, including during diaper changes, after baths, to treat or prevent diaper rash, and whenever it was needed. Anna packed the baby powder throughout Anthony's body, including on his private areas, arms, neck, forehead, armpits, and chest. She applied the powder



either directly from the bottle or with her hands. Anna also saw other family members apply Johnson's Baby Powder on Anthony while he was a baby.

Even after he was no longer wearing diapers, Anna continued using Johnson's Baby Powder tale on Anthony throughout his childhood. She applied that product in the same way and in the same areas as described in the paragraph above. In addition, Anna applied Johnson's Baby Powder on Anthony's feet and in between his toes, as well as inside his shoes.



Anthony began using Johnson's Baby Powder talc on himself when he was around 13 years old and continued using it for several years thereafter. Anthony used a lot of Johnson's Baby Powder talc throughout his body, including on his chest, armpits, private areas, back, and neck. Anna knows that her son used Johnson's Baby Powder as a teenager because she saw remnants of baby powder on Anthony's clothes and armpits. Anthony used Johnson's Baby Powder talc every day, multiple times each day, including after showers, before going out, or whenever he need to freshen up. Anthony applied that product either directly from the bottle or with his hands. It took at least a couple of minutes for Anthony to apply the powder.

Using Johnson's Baby Powder talc in the manner described above always generated visible dust. Anthony breathed that dust. Both Anthony and Anna used Johnson's Baby Powder talc because it was effective in combating sweat and odors. They also liked the product's fresh smell. Johnson & Johnson ("J&J") was a brand that they trusted.

<sup>&</sup>lt;sup>1</sup> Anna's declaration is attached hereto as Exhibit A.

<sup>&</sup>lt;sup>2</sup> Anthony's declaration is attached hereto as Exhibit B.

Anna was the person in the household who bought Johnson's Baby Powder that was used on or by Anthony. Anna vividly recalls that the powder was in an all-white bottle, the twist cap was also white, and the name "Johnson's" in script appeared on the front of the bottle. Anna had multiple bottles of Johnson's Baby Powder around the house. When Anthony was a baby, Anna always had a bottle of Johnson's Baby Powder in his diaper bag. Anna always bought the largest size of baby powder available. She also bought the travel size bottle. Anthony and his family used so much Johnson's Baby Powder that Anna bought it every two weeks at the following retailers: Lucky, Safeway, Target, and Walmart. As shown below, Anna has photographs that depict bottles of Johnson's Baby Powder talc that product throughout the family home at various stages of Anthony's life.



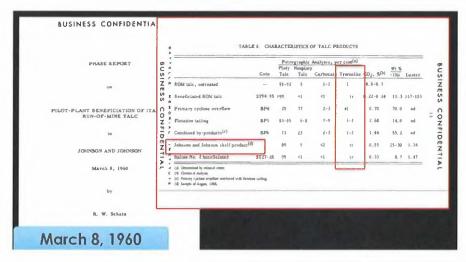


J&J and the retailers that sold Johnson's Baby Powder never warned Anthony or his mother about the product's asbestos content or asbestos-related health hazards, including cancer. If J&J and the retailers warned them of such hazards, then Anthony and his mother would have never used Johnson's Baby Powder talc on Anthony.

Anthony was exposed to asbestos from Johnson's Baby Powder and not from any other source. Anthony and Anna attest that they do not recall any circumstance in which they or anyone in their household would have been in or around any dusty environments other than through their use of Johnson's Baby Powder. [Exh. A at ¶ 7; Exh. B at ¶ 9.] Anthony's two most recent jobs, at Target and Home Depot, did not involve any hands-on work with tools, products, or any other machinery. Anthony's biological father died when Anthony was four years old. Anna was a stay-at-home mother for a majority of Anthony's life. And even when she returned to work, Anna was either doing yard duty at a school or had desk jobs. Anna's current husband is a residential landscaper. Finally, Anthony has never lived in or near any industrial areas or dust-generating facilities.

#### Liability

By no later than the 1960s, nearly 40 years before Anthony was born, J&J knew that the talc used in Johnson's Baby Powder contained asbestos. J&J also knew that there was no safe level of exposure to asbestos. Indeed, J&J admitted that a mere 0.00001 percent of carcinogenic chrysotile asbestos in an eight-ounce bottle of Johnson's Baby Powder would yield 10 million asbestos fibers per container.



On April 23, 1998, five months before Anthony was born, Dr. Alice Blount told J&J, via its counsel M. Raymond Hatcher, that its talc has trace amounts of asbestos: "As I told you, I believe that Johnson & Johnson's Vermont talc contains trace amounts of asbestos..." Dr. Blount testified and produced images showing the presence of asbestiform fibers in Johnson's Baby Powder.

On August 25, 1997, about one year Before Anthony was born, Dr. Jerrold Abraham wrote his report in the *Coker* case wherein he found talc and asbestiform fibers in Johnson's Baby Powder, which Dr. Abraham also found in Mrs. Coker's lungs. She died from mesothelioma after years of exposure to your clients' talc powder products. On January 23, 1998, J&J consultant, Dr. Alfred Wehner, advised Dr. John Hopkins at J&J to evaluate Mrs. Coker's talc exposure regimen, dosing patterns, frequency, and duration of use.

#### **Diagnosis**



In 2020, Anthony developed a cough and shortness of breath.<sup>3</sup> [Exh. C at 30.] He had been admitted with several echocardiograms performed on him, which showed pericardial effusion. [*Id.*] On January 4, 2022, he developed worsening adenopathy and neck swelling and underwent a CT scan of the neck. [*Id.*] The scan revealed a masslike pericardial effusion, along with multiple enlarged soft tissue lymph nodes and edema extending through the chest wall and pleural effusions. [*Id.* at 31.] Six days later, a biopsy of his lymph tissue was taken and the results confirm a diagnosis of malignant mesothelioma. [*Id.* at 176-177.] Stanford pathologist Dr. Gerald Berry (see left) diagnosed Anthony following surgery on January 26 and February 22, 2022. [*Id.*]

On February 17, 2022, Anthony underwent a Pericardiectomy, a Bilateral PleurX Catheters, and a Resection of the mediastinal mass and thymectomy. [Exh. C at 120.] The thoracic surgeon who performed the procedures, Dr. Leah Backhus of Stanford (right), noted that Anthony has an "[o]verall poor prognosis with advanced local disease..." [Id. at 112.] The clinical diagnosis included bilateral pleural effusions, pericardial constriction, and pericardial mesothelioma. [Id. at 118.] The final diagnosis is "malignant mesothelioma, epithelioid type (pericardial mesothelioma." [Id. at 178.]



#### Causation

As you and your clients know, mesothelioma is a signal disease closely related to exposure to asbestos. Numerous medical articles report the relationship between Pericardial Mesothelioma and asbestos exposure. For example, the World Health Organization<sup>4</sup> states that like "pleural mesothelioma, a large portion of mesotheliomas of the pericardium are induced by asbestos." [Exh. D at 286.] In Emory, et al., a patient whose only known exposure to asbestos was repeated use of cosmetic talc powder later developed pericardial mesothelioma. [Emory, et al., *Malignant Mesothelioma Following Repeated Exposures to Cosmetic Talc: A Case Series of 75 Patients* (2020) Am. J. Ind. Med. 1.]

<sup>&</sup>lt;sup>3</sup> Relevant excerpts from Anthony's medical records are attached hereto as Exhibit C.

<sup>&</sup>lt;sup>4</sup> Relevant excerpts from the WHO Classification of Tumors are attached hereto as Exhibit D.



Anthony's treating oncologist at Stanford, Dr. Mohanna Roy (left), took a social history to determine whether Anthony was previously exposed to asbestos. [Exh. C at 189.] Dr. Roy noted that Anna "reports using large amounts of baby powder (Johnson and Johnson) in [Anthony's] childhood." [*Id.*] Dr. Roy also states that there are "no other exposures to hair salon products, chemicals in labs," and "no clear asbestos exposure" from attending school "in an old building." [*Id.*]

Given the foregoing, Anthony's mesothelioma no doubt stems from his and others' use on him of Johnson's Baby Powder talc—a product known to have carcinogenic asbestos.

#### **Damages**

Beginning in February 2021, Anthony worked part-time at Home Depot as a customer service representative earning \$15 per hour. Before that, from about October 2019 to February 2021, Anthony had a similar position at Target. While working, Anthony was enrolled at Merced Community College. He was only three semesters away from obtaining his Associates Degree before he fell terminally ill. [Exh. A at ¶ 8.] But for this disease, Anthony would have obtained that degree and transferred to a university in Southern California to major in criminology in the hopes of working in law enforcement or as a private investigator. Absent his mesothelioma, Anthony had a life expectancy of another 55 years. Given his young age and earning capacity, as well as the medical care he has been receiving at Stanford, we estimate his economic loss (including estimated past and future medical expenses) to be several millions of dollars.

Anthony's non-economic damages are substantial and we estimate that they will be in the tens of millions of dollars. (See Leavitt & Prudencio verdicts)



Physically, Anthony's mesothelioma and the treatments related to it, including chemotherapy and the cardiac surgery on February 17, 2022, have caused him to experience nausea/vomiting, loss of appetite, severe chest pain and tightness, shortness of breath, discomfort, fatigue, and chronic back pain. He was admitted to the emergency department

several times since his diagnosis, the most recent of which happened on April 4, 2022, because of complications related to his first round of chemotherapy. Anthony fears that he will not tolerate subsequent rounds of chemotherapy. [Exh. A at  $\P 9$ .]

Mentally, Anthony suffers from severe depression and anxiety. [Exh. A at ¶¶ 8-9; Exh. B at ¶ 10.] Merely talking about his current state makes Anthony's heart race and causes a panic attack. Before his diagnosis, Anthony was an outgoing person who loved spending time with friends and often worked overtime because of the camaraderie. Now, Anthony refuses to communicate with any of his friends and family because he is in disbelief and shock that he is suffering from a terminal illness at a very young age. Anthony fears death. His mother lives in fear every day because she does not know whether today will be Anthony's last. No words can express Anthony's sadness that his mesothelioma has foreclosed him from any opportunity of realizing his hopes and dreams.

My client is interested in an efficient and fair resolution for a disease that will take his life. Alternatively, if your clients do not wish to resolve this matter, please let me know whether they will agree to lift the automatic stay and preliminary injunction to prepare this case for trial. As you know, the stay and the PI Order prevents my client from utilizing the California Court's subpoena powers to collect evidence for the future. Courts have held the stays that prevent the collection of evidence creates irreparable injury due lost evidence because of the passage of time.

Please contact me upon receipt of this letter so we can discuss a process for your clients to have all the information you need to resolve this case. I think most of you know my cell number given our communications in the past, but just in case it is 502-905-9945.

Thank you for your prompt attention to this matter.

oseph D. Satterley

**Enclosures** 

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#### **DECLARATION OF ANTHONY M. HERNANDEZ VALADEZ**

- I, Anthony M. Hernandez Valadez, declare:
- 1. I am an adult over the age of 18 years and have personal knowledge of the facts expressed in this declaration. If asked, I could and would testify to the truth of such facts.
  - 2. I am 23 years old and have been a lifelong resident of California.
- 3. In January 2022, I was diagnosed with mesothelioma. After subsequent scans, it is my understanding that my doctors have determined that I have pericardial mesothelioma.
- 4. I was born on September 23, 1998. When I was a baby, it is my understanding that my mother regularly used Johnson's Baby Powder talc on me, including during diaper changes and whenever it was needed. My mother and other family members continued using Johnson's Baby Powder talc on me throughout my childhood as part of my regular hygiene routine.
- 5. I first used Johnson's Baby Powder talc on myself when I was around 13 years old. I continued using that product for several years thereafter. During that time, I used a lot of Johnson's Baby Powder tale throughout my body, including on my chest, armpits, private areas, back, and neck. I used Johnson's Baby Powder talc every day, multiple times each day, including after showers, before going out, or whenever I need to freshen up. I applied that product either directly from the bottle or with my hands. It took me at least a couple of minutes to apply the powder. I used Johnson's Baby Powder talc because it was effective in combating sweat and odors. I also liked the product's fresh smell. Johnson & Johnson was a brand that I trusted.
- 6. Johnson & Johnson never warned me about its talc baby powder's asbestos content or asbestos-related health hazards, including cancer. If Johnson & Johnson warned me of such hazards, I would have never used its talc baby powder.
- 7. I do not recall any circumstance in which I or anyone in my household would have been in or around any dusty environments other than through my use of Johnson's Baby Powder. Before my diagnosis, I worked part-time as a customer service representative at Home Depot earning \$15 per hour. At that job, I only helped customers buy doors and windows. I did not do any hands-on work with any tools, products, or any other machinery. Nor was I ever around any dusty environment. Prior to Home Depot, I was a customer service representative at Target and

EXHIBIT A

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did no hands-on work with any tools, products, or any other machinery. For most of my life, my mother stayed at home to raise and care for me and my brother. Afterwards, my mom did yard duty and office work at a school. She currently works an office job at the local cemetery. My biological father died when I was four years old and I do not recall any interactions with him. My mother's current husband is a residential gardener who mows lawns and does landscaping. I never saw any dust on the work clothes of my mother or her current husband. I have never lived in or near any industrial areas or dust-generating facilities.

- 8. Prior to my mesothelioma diagnosis, I was an outgoing person who loved spending time with friends and family. For example, my friends and I often went out for dinner or lunch. I also enjoyed working and often worked overtime because of the camaraderie and several of my friends worked with me. I also enjoyed creative writing. Before my diagnosis, I was attending classes at Merced Community College and was only three semesters away from completing my Associates Degree. After obtaining that degree, I intended to transfer to a university in Southern California to major in criminology in the hopes of working in law enforcement or as a private investigator.
- 9. Having mesothelioma is the worst thing that has ever happened to me. I never had a serious, let alone life threatening, illness prior to my mesothelioma diagnosis. Mentally, this illness has caused me great anxiety and depression. Talking about my current state makes my heart race to the point where I am having a panic attack. I refuse to communicate with any of my friends and family because I am in disbelief and shock that I am suffering from a terminal disease at such a young age. Physically, this disease and any treatments related to it, including chemotherapy and cardiac surgery on February 17, 2022, have caused me to experience nausea/vomiting, loss of appetite, severe chest pain and tightness, shortness of breath, discomfort, fatigue, and chronic back pain. I have been admitted to the emergency department several times since my diagnosis, the most recent of which occurred on April 4, 2022, because of complications related to my first round of chemotherapy. It is my understanding that I have several rounds to go and greatly fear that I will not tolerate any of them.
  - 10. I understand that this disease is terminal. No words can express my sadness in

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knowing that this disease has foreclosed me from the opportunity of realizing my hopes and dreams. I am very scared of what will happen to me.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I signed this declaration at Merced, California on April 8, 2022.

Anthony M. Hernandez Valadez

Kazan, McClain, Satterley & Greenwood

A Professional Law Corporation
Jack London Market • 55 Harrison Street, Suite 400 • Oakland, California 94607

3160813.1

#### **DECLARATION OF ANNA CAMACHO**

I, Anna Camacho, declare:

- 1. I am an adult over the age of 18 years and have personal knowledge of the facts expressed in this declaration. If asked, I could and would testify to the truth of such facts.
- 2. I am the mother of Anthony M. Hernandez Valadez ("Anthony"). He is the eldest of my two sons. Anthony suffers from and has been diagnosed with pericardial mesothelioma.
- 3. When Anthony was a baby, I regularly used a lot of Johnson's Baby Powder talc on him every day, multiple times each day, including during diaper changes, after baths, to treat or prevent diaper rash, and whenever it was needed. I packed the baby powder throughout Anthony's body, including on his private areas, arms, neck forehead, armpits, and chest. I applied the powder either directly from the bottle or with my hands. I also saw other family members apply Johnson's Baby Powder on Anthony while he was a baby.
- 4. Even after he was no longer wearing diapers, I continued using Johnson's Baby Powder talc on Anthony throughout his childhood. I applied that product in the same way and in the same areas that I previously mentioned in the paragraph above. In addition, I applied Johnson's Baby Powder on Anthony's feet and in between his toes, as well as inside his shoes.
- 5. Anthony began using Johnson's Baby Powder talc on himself when he was around 13 years old and continued using it for several years afterwards. I know that Anthony was using Johnson's Baby Powder talc because the product was in the house and I saw remnants of baby powder on Anthony's clothes and armpits. I also reminded Anthony to use Johnson's Baby Powder because it was effective in combating odors and sweat.
- 6. Using Johnson's Baby Powder talc on Anthony always generated dust. Anthony breathed that dust.
- 7. I was the person in the household who bought Johnson's Baby Powder that was used on or by Anthony. The powder was in an all-white bottle. The twist cap was also white. The name "Johnson's" in script appeared on the front of the bottle. We always had multiple bottles of Johnson's Baby Powder around the house. When Anthony was a baby, I always had a bottle of Johnson's Baby Powder in his diaper bag. I always bought the largest size of baby powder

3160853.2 **EXHIBIT B** 

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- 8. Johnson & Johnson and the retailers that sold its talc baby powder never warned me about the product's asbestos content or asbestos-related health hazards, including cancer. If Johnson & Johnson and the retailers warned me of such hazards, I would have never used Johnson's Baby Powder talc on me, Anthony, or his brother.
- 9. I do not recall any circumstance in which I or anyone in my household would have been in or around any dusty environments other than through my use of Johnson's Baby Powder. For most of Anthony's life, I was a stay-at-home mother who raised and cared for Anthony and his brother. It was not until 2007 did I start working again. In 2007, I did yard duty and office

work at a school. I currently work an office job at the local cemetery. Anthony's father, Michael Valadez, died when Anthony was four years old. Michael did not work for pay because he was receiving aid from a federal assistance program for families with dependent children. Michael had no interaction with Anthony during Anthony's childhood. My current husband is a residential gardener who mows lawns and does landscaping. I never saw any dust on my, Michael's, or my current husband's work clothes. Anthony and I never lived in or near any industrial areas or dust-generating facilities.

- 10. I am in shock that Anthony has a terminal illness at such a young age. I care for Anthony every day and words cannot describe how his mesothelioma has negatively affected his mental and physical well-being. Anthony was outgoing and hardworking before his diagnosis. Now, he is suffering from anxiety and depression. He also experiences shortness of breath, extreme fatigue, and debilitating pain throughout his body. This disease has greatly traumatized me and Anthony. I highly doubt that we will ever recover from it.
- 11. I understand that Anthony's disease is terminal. Since his mesothelioma, Anthony has been admitted to the emergency department several times for complications related to his mesothelioma. I live in fear every day because I do not know whether today will be Anthony's last.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that I signed this declaration at Merced, California on April 8, 2022.

Anna Camacho

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STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500

PALO ALTO CA 94305-2200

Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 1/28/2022

#### Progress Notes by Roy, Mohana, MD at 1/28/2022 12:30 PM (continued)

500 Pasteur Dr

Stanford, CA 94305, for allowing me to participate in the care of your patients. If you have any questions or concerns, please don't hesitate to contact me directly.

The patient was seen with Dr. \*\*\*, attending physician, who agrees with the above assessment and plan.

Signed, 1/27/2022 Jason Kao, PA-C Stanford Cancer Center Physician Assistant Thoracic Oncology Pager# 26098

#### Progress Notes by Roy, Mohana, MD at 1/28/2022 12:30 PM

Author: Roy, Mohana, MD Service: Oncology Author Type: Physician Filed: 1/31/2022 9:48 AM Encounter Date: 1/28/2022 Note Type: Progress Notes

Status: Signed Editor: Roy, Mohana, MD (Physician)



#### Stanford Thoracic Oncology Clinic New Patient Consultation

RE: Dr. Parminder Sidhu

MRN: 83303958 DOB: 9/23/1998

Dear Dr. Sidhu,

I had the pleasure of seeing your patient, Mr. Anthony Hernandez, in the Stanford Thoracic Oncology Clinic regarding his history of (suspected) mesothelioma. While you are well aware of his history, please allow me to review it for our records.

#### History of present illness:

Anthony Hernandez is a 23 Y old male who was recently diagnosed with epithelioid mesothelioma. His recent oncologic history is summarized as follows.

2020: Developed cough and shortness of breath. Had been admitted with several echocardiograms performed, which showed pericardial effusions. Has only been treated on colchicine and prednisone.

1/4/22: Developed worsening adenopathy and neck swelling and underwent a CT neck for left sided neck

Printed on 3/31/22 11:07 AM Page 30 **EXHIBIT C** 

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STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500

PALO ALTO CA 94305-2200

Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 1/28/2022

#### Progress Notes by Roy, Mohana, MD at 1/28/2022 12:30 PM (continued)

swelling. Imaging revealed abnormal shotty appearing lymph nodes along the left neck and left neck soft tissue spaces including the left jugulodigastric which is enlarged measuring 1.3 cm. Numerous posterior cervical lymph nodes and bilateral supraclavicular lymph nodes.

CT chest revealed worsening lobulated masslike pericardial effusion. Worsening multiple enlarged neck soft tissue lymph nodes and subcutaneous soft tissue edema extending through the chest wall to level of the trachea. Notable supraclavicular, mediastinal, and retroperitoneal lymphadenopathy. Small pleural effusion.

1/10/22: Underwent right paratracheal (R4) lymph node biopsy. Path revealed mesothelioma, epithelioid type.

I have discussed the risks, benefits, and limitations of receiving care virtually with the patient. The patient expresses understanding and is willing to move forward. he presents today with his supportive mother.

He shares that he has had on and off symptoms of SOB and chest discomfort for ~2 years. Had been in and out of the hospital for pericardial effusion, never was tapped, and previously treated with steroids + colchicine. He shares that since his hospital discharge, he has been feeling slightly better. Continues to feel short of breath with exertion, which brings up his coughing. Cough can be dry and sometimes productive with phlegm. He does feel nauseous at times with coughing fits. Takes zofran for this. Denies any hemoptysis. He recently underwent an EBUS of 4R which demonstrated mesothelioma. He denies any personal exposure to asbestos. His father works in construction and shares that he attended school in an older building in the past. Currently works in Home Depot. Since onset of symptoms, he had not experienced any fevers, chills, night sweats, unexplained weight loss, testicular pain, inguinal lymph nodes, of testicular masses. He does have chronic back pain, which he shared that this pre-dated his symptoms.

#### **Review of systems:**

A comprehensive 14-point review of systems was performed, with pertinent positives as noted above; all other systems negative.

#### Past medical history:

Anxiety Appendicitis

#### Past surgical history:

Appendectomy 2009

#### **Medications:**

U	utp	atient	Medication	IS Prio	rto	VISIT

Medication	Sig	Dispense	Refill
acetaminophen (Tylenol Extra Strength) 500 mg TABS	1 Tab Tab, PO, every 4 hours, PRN, as needed for fever, Qty: 24 Tab, Refills: 0, 05/15/21 20:00:00 PDT, Acute, Print Requisition		
<ul> <li>acyclovir (Zovirax) 400 mg tablet</li> </ul>	acyclovir 400 mg tablet		

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STANFORD HOSPITAL 500P Hernandez-Valdez, Anthony Michael 500 PASTEUR DR MRN: 36945558, DOB: 9/23/1998, Sex: M

PALO ALTO CA 94305-2200 Adm: 2/12/2022

#### H&P by Shieh, Tim Han, PA at 2/15/2022 12:30 AM (continued)

#### **Recent Labs**

	02/14/22 0551
Sodium, Ser/Plas	138
Potassium, Ser/Plas	4.1

Diabetes : Hematologic :

Nutrition : per dietitian:

BMI from flowsheet: 33.2

Malignancy : Primary malignancy of lungs (site) Confirmed

Functional Status :

Tim Shieh, PA-C Cardiothoracic Surgery

Electronically signed by Boyd, Jack H, MD at 2/24/2022 1:31 PM

#### Operative Report signed by Boyd, Jack H, MD at 3/8/2022 4:57 PM

Author: Boyd, Jack H, MD Service: Cardiac Surgery Author Type: Physician

Filed: 3/8/2022 4:57 PM Date of Service: 2/17/2022 Note Type: Operative Report

6:00 PM

Status: Signed Editor: Boyd, Jack H, MD (Physician)

DATE OF OPERATION: 02/17/2022

#### PREOPERATIVE DIAGNOSES:

- 1. Pericardial mesothelioma.
- 2. Bilateral pleural effusions.
- 3. Pericardial constriction.

#### POSTOPERATIVE DIAGNOSES:

- 1. Pericardial mesothelioma.
- 2. Bilateral pleural effusions.
- 3. Pericardial constriction.

#### OPERATION PERFORMED:

- 1. Pericardiectomy (33030).
- 2. Bilateral PleurX catheters performed by Dr. Backhus.
- 3. Resection of mediastinal mass performed by Dr. Backhus.

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STANFORD HOSPITAL 500P Hernandez-Valdez, Anthony Michael 500 PASTEUR DR MRN: 36945558, DOB: 9/23/1998, Sex: M PALO ALTO CA 94305-2200 Adm: 2/12/2022

#### Consults by Rodriguez, Fatima, MD at 2/13/2022 7:43 PM (continued)

I saw and examined the patient and discussed management with the resident. I reviewed the resident's note and agree with the documented findings and plan of care, with the addition and/or exception of the items documented below:

**Impression and Plan**: Patient is not in clinical tamponade. Review of his echocardiogram shows a small to moderate loculated effusion. There is underlying constrictive physiology from mesothelioma with the pericardial involvement. No current indication for any cardiovascular interventions. Patient awaiting plan from oncology for mesothelioma treatment.

#### Time in Counseling and Coordination

The following is only applicable if counseling or coordination time with patient and/or family (C) is >50% of total attending floor/unit time including face to face time with patient and/or family (V). Not Applicable

Fatima Rodriguez, MD

Electronically signed by Rodriguez, Fatima, MD at 2/13/2022 9:05 PM

#### H&P by Backhus, Leah Monique, MD at 2/14/2022 11:14 AM

Author: Backhus, Leah Service: Thoracic Surgery Author Type: Physician

Monique, MD

Filed: 2/16/2022 12:31 AM Date of Service: 2/14/2022 Note Type: H&P

11:14 AM

Status: Addendum Editor: Backhus, Leah Monique, MD (Physician)

Related Notes: Original Note by Anderson, Taylor, MD (Resident) filed at 2/15/2022 7:52 AM

#### Stanford Hospital and Clinics Thoracic Surgery Consult H&P

Service: Treatment Team: Tt, Med Oncology - Mix Surge Admit Date:2/12/2022

Team C
Attending: Cao, Michelle Thi, DO
Today's Date: 2/14/2022
Length of stay: LOS: 2

Referring provider: Selfreferral days

Patient's Name/MRN: Anthony Michael Hernandez- Room #: E344/E344A

Valdez, 36945558

Reason for consult: pericardial epithelioid mesothelioma

**HPI:** Anthony Michael Hernandez-Valdez is a 23 Y male with a history of newly diagnosed pericardial epithelioid mesothelioma c/b malignant pericardial and pleural effusions and constrictive pericarditis (EF 49%).

Patient originally presented in 2020 with a persistent cough and pericardial resolution that failed to respond to multiple courses of colchine and prednisone over the past 2

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STANFORD HOSPITAL 500P Hernandez-Valdez, Anthony Michael 500 PASTEUR DR MRN: 36945558, DOB: 9/23/1998, Sex: M PALO ALTO CA 94305-2200 Adm: 2/12/2022

#### H&P by Backhus, Leah Monique, MD at 2/14/2022 11:14 AM (continued)

vears.

1/4/2022: Presented with progressive cervical adenopathy and workup demonstrating pericardial mass, worsening pericardial effusion, and small pleural effusions.

1/10/22: Underwent right paratracheal (R4) lymph node biopsy. Path revealed mesothelioma, epithelioid type.

1/20-1/24 Admitted for dyspnea, found to have pulmonary embolism, started on apixaban.

1/24 Echo demonstrating constrictive-effusive pericarditis with EF 49%

1/28: Oncology outpatient visit, referred for thoracic evaluation.

2/6-2/9: Admitted with dyspnea and large bilateral pulmonary effusions, underwent bilateral thoracentesis (R 2/8, L 2/9) with removal of 1.5L fluid from each side. 2/8: PET scan showing extensive nodular hypermetabolic thickening of pericardium and Widespread mediastinal adenopathy extending into the cardiophrenic angle and retroperitoneum, and supraclavicular areas.

2/12: Readmitted with SOB, chest pressure, tachycardia to 200s. CTPE on 2/12 showing nodular pericardial thickening and negative for PE. Notable laboratory values: Wbc 7.5, Hgb 12, platelet 348, Cr 0.87, INR 1.4.

Patient remains persistently tachycardic and reports ongoing dyspnea especially with exertion, persistent food requigitation that has improved since hospitalization, body aches, and nonproductive cough. Denies orthopnea, hemoptysis, unintentional weight loss.

#### Past Medical History:

Past Medical History:

Diagnosis

Date

- Mesothelioma (CMS-HCC)
- Pericardial effusion
- Pleural effusion, malignant
- Pulmonary embolism (CMS-HCC)

appendicitis

#### Past Surgical History:

Appendectomy (2009)

Allergies: Allergies

Allergen

Zofran [Ondansetron Hcl]

Reactions Nausea.

Vomiting, Dizziness and Family History: His family history is not on file.

Social History:

Social EtOH

No drug use

Father in construction, younger sibling at home

Review of Systems

Pertinent items are noted in HPI. A complete review of systems was otherwise negative.

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STANFORD HOSPITAL 500P Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M 500 PASTEUR DR PALO ALTO CA 94305-2200 Adm: 2/12/2022

H&P by Backhus, Leah Monique, MD at 2/14/2022 11:14 AM (continued)

#### Headache

#### Medications:

Current Facility-Administered Medications:

- acetaminophen (Tylenol) tablet 650 mg, 650 mg, Oral, Q6H PRN, Cao, Michelle Thi, DO, 650 mg at 02/14/22 1807
- ALPRAZolam (Xanax) tablet 0.25 mg, 0.25 mg, Oral, TID PRN, Cao, Michelle Thi, DO, 0.25 mg at 02/14/22 1045
- benzonatate (Tessalon) capsule 100 mg, 100 mg, Oral, Q4H PRN, Cao, Michelle Thi, DO, 100 mg at 02/14/22 1016
- enoxaparin (Lovenox) syringe 120 mg, 120 mg, Subcutaneous, Q12H, Dobos, Katharine Marie, MD, 120 mg at 02/14/22 2116
- hydrOXYzine HCL (Atarax) tablet 25 mg, 25 mg, Oral, Q8H PRN, Cao, Michelle Thi, DO, 25 mg at 02/13/22 1504
- LR IV infusion, , Intravenous, Continuous, Cao, Michelle Thi, DO, Last Rate: 75 mL/hr at 02/15/22 0039, New Bag at 02/15/22 0039
- melatonin tablet 3 mg, 3 mg, Oral, QHS PRN, Cao, Michelle Thi, DO
- oxyCODONE (Roxicodone) tablet 5 mg, 5 mg, Oral, Q4H PRN, Cao, Michelle Thi, DO
- pantoprazole (Protonix) delayed release tablet 40 mg, 40 mg, Oral, QAM AC, Cao, Michelle Thi, DO, 40 mg at 02/15/22 0544
- prochlorperazine (Compazine) tablet 10 mg, 10 mg, Oral, Q6H PRN, Cao, Michelle Thi, DO

#### Physical Exam VITAL SIGNS:

#### Visit Vitals

BP 116/87 Pulse 117

Temp 37.1 °C (98.7 °F) (Oral)

Resp

1.854 m (6' 1") Ht Wt 114 kg (251 lb 5.2 oz)

SpO2 96%

BMI 33.16 kg/m<sup>2</sup>

GENERAL: sitting in bed comfortably in NADH

**HEENT:** no palpable cervical or supraclavicular lymphadenopathy

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STANFORD HOSPITAL 500P Hernandez-Valdez, Anthony Michael 500 PASTEUR DR MRN: 36945558, DOB: 9/23/1998, Sex: M PALO ALTO CA 94305-2200 Adm: 2/12/2022

#### H&P by Backhus, Leah Monique, MD at 2/14/2022 11:14 AM (continued)

CHEST AND LUNGS: normal work of breathing on RA, O2 sat >96%, bibasilar

diminished lung sounds, no wheezes or crackles noted

CARDIOVASCULAR: tachycardic, regular rhythm per monitor

**EXTREMITIES:** moving spontaneously

**NEURO:** Alert and oriented

#### Labs:

CBC:				Electrolytes:			UA:	
Recent Labs						No results for input(s):		
		02/13			02/12/2	02/13/2	02/14/2	UCOL, SPG, UGLU,
	ľ.		/22		2	2	2	UKET, UBLOOD, UPH,
			0551		1423	0728	0551	UPROT, NITRITE,
WBC		8.8	7.6	NA	134*	133*	138	LEUKEST, URBC, UWBC, UBACT, SQEP,
	12.8*			K	3.8	4.0	4.1	MUCUS, UCMT in the
HCT	41.1	40.2	39.7*	CL	100	101	104	last 72 hours.
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				BUN	10	11	9	
LFTs:	•			CR	0.87	0.86	0.87	
Recer	nt Lab		<b>'00</b>	CA	8.5	8.4	8.3*	
02/12/22 1423			22					
TBIL 0.9		Blood glucose:						
AST	AST 19			Recent Labs				
ALT		20			02/12/2	02/13/2	02/14/2	
ALKP		154*			2	2	2	
ALB		3.6			1423	0728	0551	
		-		GLU	96	98	88	
Coage	Coags:							
Recent Labs		Nie ne eulte fen innest/els LIDAGE						
02/12/22 1623		No results for input(s): LIPASE, AMYLASE, LAC, LDH in the last 72						
PT	T 17.2*		hours.					
INR	NR <b>1.4</b> *							

#### Imaging:

CT Chest Angiography w IV Contrast Pulmonary Embolism

Result Date: 2/12/2022

IMPRESSION: 1. No evidence of pulmonary embolism.. 2. History of mesothelioma. Again seen is nodular pericardial thickening and moderate effusion with extensive mediastinal and cardiophrenic lymphadenopathy. 3. Bilateral moderate pleural effusions with associated compressive atelectasis. Additional areas of groundglass opacities and nodular consolidations involving the left lower lobe are likely representing airspace opacities. There are no substantial differences between the preliminary results and the impressions in this final report. I have personally reviewed the images for this examination and agree with the report transcribed above. Signed "Final report"

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STANFORD HOSPITAL 500P Hernandez-Valdez, Anthony Michael 500 PASTEUR DR MRN: 36945558, DOB: 9/23/1998, Sex: M PALO ALTO CA 94305-2200 Adm: 2/12/2022

#### H&P by Backhus, Leah Monique, MD at 2/14/2022 11:14 AM (continued)

XR Chest 1 View

Result Date: 2/12/2022

IMPRESSION: 1. Retrocardiac opacity may reflect atelectasis versus aspiration/infection. 2. Persistent moderate left pleural effusion There are no substantial differences between the preliminary results and the impressions in this final report. I have personally reviewed the images for this examination and agree with the report transcribed above. Signed"Final report"

#### Assessment/Recommendation:

Anthony Michael Hernandez-Valdez is a 23 Y male with a history of newly diagnosed pericardial epithelioid mesothelioma c/b malignant pericardial and pleural effusions and constrictive pericarditis.

Patient presents with symptomatic rapid reaccumulation of malignant pleural effusions s/p recent thoracentesis and would benefit from additional drainage, with indication for long-term pleurx catheter placement given likelihood of recurrence. Overall poor prognosis with advanced local disease, supraclavicular and retroperitoneal lymphadenopathy. Recommend additional discussion with medical oncology for initiation of chemotherapy as well as consult to cardiac surgery for consideration of pericardiectomy as means of surgical debulking given evidence of hemodynamically significant constrictive-effusive pericarditis. These measures are temporizing given advanced disease, recommend additional discussion with patient and family to determine goals and appropriate course of care.

#### Recommendations:

- Obtain cardiac MRI for preoperative workup
- Pleurx catheter placement for long-term management of malignant effusions
- Consult to medical oncology
- Consult to cardiac surgery for pericardiectomy consideration
- Goals of care discussion with family and patient. Thoracic surgery to remain available for involvement in this discussion if needed.

This patient was discussed with Dr. Backhus, attending surgeon, who agreed with the above assesment and plan.

Taylor Anderson, MD Thoracic Surgery, p12060 11:20 AM 2/14/2022

#### ATTENDING ATTESTATION:

I personally saw and evaluated the patient, and participated in the management and treatment plan as documented in the above note. The patient was seen at bedside along with his mother. All imaging were reviewed personally. Overall, primary pericardial mesothelioma is an extremely rare condition with a poor

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STANFORD HOSPITAL 500P Hernandez-Valdez, Anthony Michael 500 PASTEUR DR MRN: 36945558, DOB: 9/23/1998, Sex: M PALO ALTO CA 94305-2200 Adm: 2/12/2022

#### H&P by Backhus, Leah Monique, MD at 2/14/2022 11:14 AM (continued)

prognosis. Most often these are refractory to traditional chemotherapy regimens. Mainstay of therapy is surgical debulking primarily for palliation of effusions and relief of constrictive pericarditis. The latter is an extensive undertaking so goals of care must be clear. I emphasized this to him and his mother. He also has extensive adenopathy which underscores the advanced stage of his disease. Per my review, however and given his young age and functional status, surgery should be considered followed by adjuvant chemotherapy at the discretion of medical oncology. To that end, I have already discussed his case with Dr Boyd from Cardiac Surgery to provide an assessment of operability from his perspective. If he agrees, this can be done as a joint case. I can address his effusions, provide lymph node dissection for the mediastinal nodes accessible via median sternotomy approach as well as potentially address any visible pleural lesions. I can also place pleur-x catheters for longterm management of his pleural effusions. Will follow up with Cardiac Surgery and Medical Oncology to determine feasibility of this plan. I spent a total of > 60 min in direct patient evaluation and care coordination among providers for this encounter. He and his mother asked several insightful questions and they are agreeable with this tentative plan.

Electronically signed by Backhus, Leah Monique, MD at 2/16/2022 12:31 AM

#### H&P by Shieh, Tim Han, PA at 2/15/2022 12:30 AM

Author: Shieh, Tim Han, PA Service: Cardiac Surgery Author Type: Physician

Assistant

Filed: 2/15/2022 1:21 AM Date of Service: 2/15/2022 Note Type: H&P

12:30 AM

Status: Signed Editor: Shieh, Tim Han, PA (Physician Assistant)

Cosigner: Boyd, Jack H, MD at 2/24/2022 1:31 PM

Stanford Hospital and Clinics
Cardiac Surgery History and Physical

Date: 2/15/2022 Service: Cardiac Surgery Attending: Jack H. Boyd, M.D.

#### **ALLERGIES:**

- sensitivity to ondansetron (nausea, headache)

#### **History of Present Illness:**

Anthony Hernandez-Valdez is a pleasant 23 year old male with a past medical history of appendicitis status post appendectomy circa 2009 and COVID+ 1/20, with a recent diagnosis of epithelioid mesothelioma, who presented to the hospital with a c/c of dyspnea and was found to have pulmonary edema and worsening

#### Case 223302825 WBLK DDoc 23483 FIFTE do 005/04/232 Eletter do 05/04/232088369220 DDesc Exhibet x bit bet x bit states level exhaustida RTP age 125 gef 36 to f 225



STANFORD HOSPITAL 500P Hernandez-Valdez, Anthony Michael 500 PASTEUR DR MRN: 36945558, DOB: 9/23/1998, Sex: M

PALO ALTO CA 94305-2200 Adm: 2/12/2022

#### H&P by Shieh, Tim Han, PA at 2/15/2022 12:30 AM (continued)

#### **Recent Labs**

	02/14/22 0551
Sodium, Ser/Plas	138
Potassium, Ser/Plas	4.1

Diabetes : Hematologic :

Nutrition : per dietitian:

BMI from flowsheet: 33.2

Malignancy : Primary malignancy of lungs (site) Confirmed

Functional Status :

Tim Shieh, PA-C Cardiothoracic Surgery

Electronically signed by Boyd, Jack H, MD at 2/24/2022 1:31 PM

#### Operative Report signed by Boyd, Jack H, MD at 3/8/2022 4:57 PM

Author: Boyd, Jack H, MD Service: Cardiac Surgery Author Type: Physician

Filed: 3/8/2022 4:57 PM Date of Service: 2/17/2022 Note Type: Operative Report

6:00 PM

Status: Signed Editor: Boyd, Jack H, MD (Physician)

DATE OF OPERATION: 02/17/2022

#### PREOPERATIVE DIAGNOSES:

- 1. Pericardial mesothelioma.
- 2. Bilateral pleural effusions.
- 3. Pericardial constriction.

#### POSTOPERATIVE DIAGNOSES:

- 1. Pericardial mesothelioma.
- 2. Bilateral pleural effusions.
- 3. Pericardial constriction.

#### OPERATION PERFORMED:

- 1. Pericardiectomy (33030).
- 2. Bilateral PleurX catheters performed by Dr. Backhus.
- 3. Resection of mediastinal mass performed by Dr. Backhus.

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STANFORD HOSPITAL 500P Hernandez-Valdez, Anthony Michael 500 PASTEUR DR MRN: 36945558, DOB: 9/23/1998, Sex: M PALO ALTO CA 94305-2200 Adm: 2/12/2022

# Operative Report signed by Boyd, Jack H, MD at 3/8/2022 4:57 PM (continued)

SURGEON: Jack H Boyd, MD

SURGEON: Leah M Backhus, MD.

CO-SURGEON: Jack H Boyd, MD.

SURGERY RESIDENT: Irmina A Elliott, MD

ASSISTANT: Jessica C Warner, PA-C

#### INTRAOPERATIVE FINDINGS:

1. Large bilateral chylothoraces.

2. Diffuse tumor involvement of the pericardium with areas of invasion into the myocardium.

INDICATION FOR SURGERY: Anthony Hernandez is a 23-year-old male with the above diagnoses. He has been offered palliative pericardiectomy and mass excision as well as PleurX catheter placement. The risks, benefits, and alternatives were discussed. All questions were answered. Informed consent was obtained.

DESCRIPTION OF PROCEDURE: Please refer to Dr. Backhus' separate note for her portions of the procedure.

The patient was brought to the operating room, placed in the supine position on the operating table. Femoral lines were placed, and then general anesthesia was induced. The patient was intubated and the appropriate monitoring lines and catheters were placed. The patient was then prepped and draped in normal sterile fashion. A median sternotomy was performed. Both pleural spaces were opened widely and large quantities of chylous effusion were removed by suction approximately 5-6 L in total. We then began by excising all the mediastinal fat and then attempted to open the pericardium in several places before finding an area overlying the right ventricle. We then slowly removed after identifying the proper plane, removed as much pericardium as we could from around the right atrium over the right ventricle and out toward the left ventricular apex. There were areas of direct tumor involvement into the heart and these areas were spared. All in all from nearly right phrenic to the left phrenic with about 2 cm on either side from the level of the diaphragm up to the aorta the vast majority of the pericardium with tumor involved was resected. After completing the pericardiectomy and a thymectomy with other mediastinal fat excision by Dr. Backhus, it was determined this should complete the extent of our resection. During the surgery, the patient's CVP decreased from the high 20s to low 20s. The pulmonary pressures dropped nearly in half from a

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STANFORD HOSPITAL 500P Hernandez-Valdez, Anthony Michael 500 PASTEUR DR MRN: 36945558, DOB: 9/23/1998, Sex: M PALO ALTO CA 94305-2200 Adm: 2/12/2022

# Operative Report signed by Boyd, Jack H, MD at 3/8/2022 4:57 PM (continued)

systolic of 60 to a systolic in the low 30s and the cardiac output doubled. Drainage catheters were placed. Dr. Backhus and her team placed PleurX catheters and the chest wall was closed in the standard fashion. Needle, sponge, and instrument counts were correct. Pre and postoperative time-outs were performed. I was present and scrubbed for the procedure.

Jack H Boyd, MD

CC: Han Zhu, MD

Fatima Rodriguez, MD

Mohana Roy, MD

D: 02/18/2022 13:30:53 T: 02/18/2022 14:02:56 / MODL

SJN: 947455498 DJN: 354233

Electronically signed by Boyd, Jack H, MD at 3/8/2022 4:57 PM

## Operative Report by Backhus, Leah Monique, MD at 2/17/2022 10:00 PM

Author: Backhus, Leah Service: Thoracic Surgery Author Type: Physician

Monique, MD

Filed: 2/20/2022 5:27 PM Date of Service: 2/17/2022 Note Type: Operative Report

10:00 PM

Status: Addendum Editor: Backhus, Leah Monique, MD (Physician)

Related Notes: Original Note by Elliott, Irmina A, MD (Fellow) filed at 2/20/2022 12:34 PM

DATE OF OPERATION: 02/17/2022

#### PREOPERATIVE DIAGNOSES:

- 1. Pericardial mesothelioma.
- 2. Bilateral pleural effusions.
- 3. Pericardial constriction.

#### POSTOPERATIVE DIAGNOSES:

- 1. Pericardial mesothelioma.
- 2. Bilateral pleural effusions, chylothoraces.
- Pericardial constriction.

#### **OPERATION PERFORMED:**

- 1. Pericardiectomy (performed by Dr. Boyd)
- 2. Bilateral PleurX catheters

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STANFORD HOSPITAL 500P Hernandez-Valdez, Anthony Michael 500 PASTEUR DR MRN: 36945558, DOB: 9/23/1998, Sex: M

PALO ALTO CA 94305-2200 Adm: 2/12/2022

# Operative Report by Backhus, Leah Monique, MD at 2/17/2022 10:00 PM (continued)

3. Resection of mediastinal mass and thymectomy

SURGEON: Leah M Backhus, MD. CO-SURGEON: Jack H Boyd, MD.

SURGERY RESIDENT: Irmina A Elliott, MD

ASSISTANT: Jessica C Warner, PA-C

#### INTRAOPERATIVE FINDINGS:

- 1. Large bilateral chylothoraces.
- 2. Diffuse tumor involvement of the pericardium with areas of invasion into the myocardium.

INDICATION FOR SURGERY: Anthony Hernandez is a 23-year-old male with pericardial mesothelioma. He has been offered palliative pericardiectomy for tumor debulking with the hope of relieving his shortness of breath as well as PleurX catheter placement. The risks, benefits, and alternatives were discussed. All questions were answered. Informed consent was obtained.

DESCRIPTION OF PROCEDURE: Please refer to Dr. Boyd's separate note for his portions of the procedure. The patient was brought to the operating room, placed in the supine position on the operating table. Before induction of general anesthesia, an ultrasound-guided sheath was placed in the left common femoral artery and right common femoral vein. General anesthesia was induced and the patient was then prepped and draped in the usual sterile fashion.

As indicated in Dr. Boyd's note, a median sternotomy was made. The pleural spaces were opened and what appeared grossly to be bilateral chylous effusions were evacuated totally 4-5 Liters of fluid. Partial pericardiectomy was performed. We then proceeded with thymectomy, dissecting the pericardial fat and thymus free from the pericardial surface from the level of the diaphragm to above the innominate vein, taking care not to injure the phrenic nerves. The draining thymic veins were ligated with clips and divided. Of note, the thymus and pericardial fat were nodular and thickened, containing areas of tumor. We then placed bilateral tunneled PleurX catheters. Incisions were made at appropriate exit sites, and the catheters positioned using the tunneler with the cuff just within the exit incision. We also placed bilateral straight chest tubes and a mediastinal tube.

The chest wall was closed in the standard fashion. Needle, sponge, and instrument counts were correct. Pre and postoperative time-outs were performed.

#### **Surgical Teaching Physician Attestation**

I was present, scrubbed and directly participated in the entire surgical procedure detailed above.

Leah Monique Backhus, MD Thoracic Surgery

Electronically signed by Backhus, Leah Monique, MD at 2/20/2022 5:27 PM

Documentation Clarification by Novack, Michael Raedy, MD at 2/18/2022 10:29 AM

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STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500 Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/4/2022

PALO ALTO CA 94305-2200

# Progress Notes by Roy, Mohana, MD at 3/4/2022 9:00 AM (continued)

Plas	mg/dL	
Creatinine	Latest Ref	0.95
	Range: 0.67 -	
	1.17 mg/dL	

Results for HERNANDEZ-VALDEZ, ANTHONY MICHAEL (MRN 36945558) as of 3/5/2022 11:05

1100010	· ·-		<i>,</i>	2, ,
		Ref. Range		3/4/2022 11:56
ALT	F	Latest Ref Range: 10 - 50 U/L		4 (H)
Alk P'TASE, Total, Ser/Plas	F	Latest Ref Range: 40 - 130 U/L		91 (H)
Albumin, Ser/Plas	F	Latest Ref Range: 3.5 - 5.2 g/dL		.9 (L)
Protein, Total, Ser/Plas	F	atest Ref Range: 6.0 - .3 g/dL	6	.3

#### Imaging:

As in HPI

Most recent review in tumor board of CTA 2/26/22

#### Pathology:

## 2/25/22 Pericardiectomy Specimen Review

- A. THYMUS PERICARDIAL FAT
- B. PERICARDIUM AND TUMOR

**DIAGNOSIS (MICROSCOPIC):** 

- A. THYMUS AND PERICARDIAL FAT, EXCISION
- -- PERICARDIAL TISSUE WITH MALIGNANT MESOTHELIOMA, EPITHELIOID TYPE
- -- METASTATIC MALIGNANT MESOTHELIOMA COMPLETELY REPLACING ONE LYMPH NODE (1/1)
- -- EXTENSIVE VENOUS AND LYMPHATIC INVOLVEMENT BY MALIGNANT MESOTHELIOMA
- -- INVOLUTED THYMIC TISSUE
- B. HEART, PERICARDIUM AND TUMOR, EXCISION
- -- MALIGNANT MESOTHELIOMA, EPITHELIOID TYPE

LIBERT/C. WANG/BERRY

COMMENT: We note the patient's recent diagnosis of metastatic malignant mesothelioma, epithelioid type (SHS-22-03759). The tumor present in the current resection specimen is morphologically similar.

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Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/4/2022

Progress Notes by Roy, Mohana, MD at 3/4/2022 9:00 AM (continued)

#### Stanford Review

**DIAGNOSIS:** 

LYMPH NODES. RIGHT LOWER PARATRACHEAL/4R, EXCISIONAL BIOPSY (1/10/22; 22MS-133)

-- HISTOLOGIC AND IMMUNOPHENOTYPIC FINDINGS SUPPORTING METASTATIC MALIGNANT MESOTHELIOMA, EPITHELIOID TYPE.

COMMENT: I have reviewed the H&E stained slides and accompanying immunostains and agree with Dr. Silveira as listed above. In light of the unusual diagnosis in this age group I performed a battery of immunostains in our lab along with additional H&E stained slides. The neoplastic cells within the lymph node show the following immunophenotypic profile: WT1 positive, P40 negative, CK5/6 positive, D2-40 positive, BAP1 retained, BerEP4 negative, calretinin positive, Claudin4 negative. This supports metastatic malignant mesothelioma, epithelioid type. The findings are consistent with pericardial origin.

#### EBUS of 4R 1/10/22:

Immunostain for cytokeratin AEI/AE3, cytokeratin 7, and cytokeratin 5/6 are diffusely positive. Both calretinin and WT1 display nuclear staining of tumor.

Ki-67 highlights around 25% of nuclei. Thrombomodulin stains tumor weakly (the external control stains no better). MOC31, BER-EP4, PAX8, thyroglobulin, CD5, p40, OCT-4, and CD17 are all negative. CD3/CD20 immunostain cocktail displays background aggregates of B cells, with surrounding T cells. Immunostain cocktail displays no nuclear uptake with TTF-1 and no cytoplasmic staining with napsin A.

Flow cytometry on tissue from part 2 was performed at NeoGenomics. Viability is poor (<50%) and most cells appear non-hematopoietic. Residual lymphocytes (11% of total) are primarily T cells (68%), with CD4/CD8 ratio of 1.6, and no loss of antigens. Please see appended report for additional details.

# Molecular: 2/4/22 Guardant peripheral- negative STAMP pending

#### **Assessment & Plan:**

Anthony Michael Hernandez-Valdez is a 23 Y old male with newly diagnosed pericardial mesothelioma, status post pericardiectomy and Pleurx placement on 2/17/2022, here for follow-up.

#### #Epithelioid mesothelioma, pericardial-metastatic

Today was the first day after these recurrent hospitalizations that we have been able to meet and discussed the diagnosis in some detail. Given his understandable anxiety given the overwhelming nature of this new diagnosis, I asked permission to speak to his mother Anna first. Mr. Hernandez was visibly anxious and uncomfortable, so he chose to sit outside the room for the initial piece of conversation. At a follow up telephone call however I was able to share this information with him as well.

I noted that firstly this does appear to be a primary mesothelioma of the pericardium which is exceedingly rare,

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STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500 PALO ALTO CA 94305-2200

Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/4/2022

# Progress Notes by Roy, Mohana, MD at 3/4/2022 9:00 AM (continued)

even within the rare diagnosis of mesothelioma in general. In addition him being so young and age makes this additionally difficult. I noted that with the location of the disease and the extent of disease, I do not think that this is curable at this point. I did discuss the poor prognosis with this disease that is been reported in the literature, with less than 200 cases reported in general, however aside at the limited data. I did note that in the worst cases survival can be a few months, but that her hope is to stabilize the disease and see how chemo responsive it is, and prolong survival as much as able. This was understandably quite upsetting for his mother to here but she was appreciative of the information.

The plan would be to let him heal from his sternotomy and major surgery for at least 4 weeks and then start chemotherapy. Initially was considering cisplatin but given duration of treatment and risk for further toxicities, I will plan to start him on carboplatin and pemetrexed. Can consider adding bevacizumab based on how he is doing.

Treatment after that would be immunotherapy based.

- -Continuing to drain Pleurx 1 L each side, able to provide him containers as he had run out of them, and we will plan to follow-up with Dr. Backus's team. Appreciate thoracic surgery assistance today in obtaining these drainage containers and also instructing how to obtain more
- -Plan to start folic acid daily
- -Circle back next week given information overload and discussed details of chemotherapy with formal chemo teach
- -agree with cancer genetics referral for more thorough testing, especially as these cases have been been noted to be not is related to asbestos exposure

## #Anxiety-baseline with coping of new diagnosis

Contacted Ms. Pam Simon in AYA group- for helping support him. Our social worker Mr. Low is also involved, he informed me that he is not eligible for psych oncology at Stanford but he can pursue local psychology options.

- -Will send him AYA support websites
- -Formal AYA referral
- -Referral to palliative care- with Dr. Fronk will discuss his story with Dr. Fronk as well
- -I think the hydroxyzine is not helping enough with his anxiety and he as he is largely at home and not drivingwill Rx Lorazepam 1 mg -and reassess need

**#Cardiac Management-**in discussing the case with Dr. Boyd and Dr. Backus and reviewing the operative reports, he has still significant mesothelial tumor involvement around his heart and some into the myocardium. Recommend continuing metoprolol succinate 75 mg daily. At this point I have asked him to stop colchicine as I am not sure that that is really helping. He is going to get established with Dr. Hsu in cardiology for help further with management of tachycardia and cardiac status.

# **#Thrombosis -** non occlusive thrombus bilateral internal jugular and left brachiocephalic veins **#Right subsequental PE**:

He is still on rivaroxaban 15 mg daily with the initial loading. And will transition to 20 mg daily. -can consider anti-XA level if worried about DOAC inefficacy

#### # Acid reflux

#### # Nausea

- Continue compazine as needed
- -Continue Pepcid twice a day

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Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/4/2022

# Progress Notes by Roy, Mohana, MD at 3/4/2022 9:00 AM (continued)

Anticipate starting chemotherapy by the week of either 3/14 or 3/21 pending above and discussions with him

As usual, I encouraged the patient to contact us should he develop any new symptoms or have any questions or concerns

Mohana Roy, MD Clinical Assistant Professor-Oncology Stanford Cancer Center Palo Alto and South Bay

Electronically signed by Roy, Mohana, MD at 3/5/2022 11:37 AM

# ED Provider Notes by Gharahbaghian, Laleh, MD at 3/6/2022 12:21 PM

Author: Gharahbaghian, Laleh, Service: Emergency Medicine Author Type: Physician

MD

Filed: 3/6/2022 12:26 PM Date of Service: 3/6/2022 12:21 Note Type: ED Provider Notes

PM

Status: Signed Editor: Gharahbaghian, Laleh, MD (Physician)



# **Emergency Department Provider Note**

Name: Anthony Michael Hernandez-Valdez ED Arrival: 3/6/2022 12:06 PM

MRN: 36945558 Room #: LDC03

## **History & Physical**

#### Triage:

**Chief Complaint** 

Patient presents with

Supplies Only

pt resquests assistance with obtaining meidcal supplies for bilatetal pleural drains

HPI 23 yo pericardectomy with pleur drains Who ran out of supplies told to come to ED to obtain. No other complaints, doing well, pain controlled. No redness around sites or surgical procedure. No fever

**Expand/Collapse Notes** 

# 



BOSWELL CLINICS
300 PASTEUR DR
STANFORD CA 94305

Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

STANFORD CA 94305-2200 Visit date: 3/7/2022

# Progress Notes by Zhu, Han, MD at 3/7/2022 2:00 PM (continued)

with any questions or concerns.

-----

Han Zhu, MD

Stanford Cardio-Oncology Center Stanford Cardiovascular Medicine

#### Telehealth Video Visit

I have discussed the risks, benefits, and limitations of receiving care virtually with the patient. The patient expresses understanding and is willing to move forward.

I personally spent a total of 60 minutes which includes face-to-face time and non face-to-face time spent on preparing to see the patient, reviewing prior notes and tests, obtaining history from the patient, performing a medically appropriate exam, counseling and educating the patient, ordering medications/tests/procedures/referrals as clinically indicated, and documenting information in the electronic medical record.

Electronically signed by Zhu, Han, MD at 3/7/2022 2:52 PM

# Progress Notes by Backhus, Leah Monique, MD at 3/7/2022 3:00 PM

Author: Backhus, Leah Service: Thoracic Surgery Author Type: Physician

Monique, MD

Filed: 3/17/2022 10:59 AM Encounter Date: 3/7/2022 Note Type: Progress Notes

Status: Addendum Editor: Backhus, Leah Monique, MD (Physician)

Related Notes: Original Note by Lee, Angela Y, NP (Nurse Practitioner) filed at 3/12/2022 2:35

PM

# Stanford Hospital and Clinics Post-op visit

Date: 3/7/2022

First post-op visit

#### ID

Anthony Michael Hernandez-Valdez is a 23 Y male, DOB: 9/23/1998 now 2 weeks status posted pericardiectomy (performed by Dr. Boyd), Bilateral Pleurx catheters and resection of mediastinal mass and thymectomy by Dr. Backhus. Final pathology showed the thymus and pericardial tissue with malignant mesothelioma, epithelioid type. 1 lymph node with metastatic disease.

## **Interval History**

Mr. Anthony Michael Hernandez-Valdez is a 23 Y male developed persistent cough and pericardial resolution that failed to respond to multiple courses of colchicine and prednisone since 2020. In 1/2022, he presented

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STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500 PALO ALTO CA 94305-2200

Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/7/2022

# Progress Notes by Backhus, Leah Monique, MD at 3/7/2022 3:00 PM (continued)

with progressive cervical adenopathy and workup demonstrating pericardial mass, worsening pericardial effusion, and small pleural effusions, On 1/10/22, he underwent right paratracheal (R4) lymph node biopsy. Path revealed mesothelioma, epithelioid type. On 1/20. He was admitted for dyspnea, found to have pulmonary embolism, started on apixaban. On 1/24, Echo demonstrated constrictive-effusive pericarditis with EF 49%. He was referred to Stanford thoracic surgery and oncology clinic.

On 2/6, he was admitted with dyspnea and large bilateral pulmonary effusions, underwent bilateral thoracentesis (R 2/8, L 2/9) with removal of 1.5L fluid from each side.

On 2/8, PET scan showed extensive nodular hypermetabolic thickening of pericardium and Widespread mediastinal adenopathy extending into the cardiophrenic angle and retroperitoneum, and supraclavicular areas. There is extensive adenopathy in the neck at nearly all cervical levels. Right level 2 node measures 1.3 x 1.1 cm (41) with an SUV max of 5.9. Left level 2B node measures 2.2 x 1.2 cm (46) with an SUV max of 6, previously measuring 1.9 x 0.9 cm on the neck CT dated 1/4/2022. Extensive supraclavicular and left axillary. and mediastinal hypermetabolic adenopathy is present; Left upper mediastinal/paratracheal lymph node measures 1.9 x 1.4 cm (76) with an SUV max of 7.5. Left axillary lymph node measures 1.9 x 1.67 m (82) with an SUV max of 4.2. Right internal mammary node measuring 1.3 x 1.1 cm (119) and SUV max of 3.7. Paraspinal adenopathy is also seen, for example a 1 cm node in short axis with an SUV of 4.9 (159). No FDGavid pulmonary lesions. Lung parenchymal evaluation, including for punctate nodules. Large bilateral pleural effusions are present with partial collapse of the lower lobes. No focal FDG-avid lesion. Increased uptake within the intercostal muscles of the upper thorax bilaterally and as well as the scalenes suggestive of accessory respiratory muscle use. No coronary artery calcification. Extensive nodular hypermetabolic thickening of the pericardium present. For example along the right inferolateral pericardium adjacent to the right ventricle measures approximately 6.1 x 3 cm (140) with an SUV max of 15.3. Relatively increased FDG uptake of myocardium. Upper mediastinal hypermetabolic adenopathy tracking along the right diaphragmatic crus is present with reference nodes follows: Portacaval node measures 1.7 x 1.4 cm (179) with an SUV max of 5.5. Retrocaval node measures 1.7 x 1.5 cm (183) with an SUV max of 5.9. Enlarged left cardiophrenic node measuring 1.3 cm in short axis (157) with SUV max 6.8.

On 2/12, he was readmitted with SOB, chest pressure, tachycardia to 200s. CTA showed nodular pericardial thickening and negative for PE. On 2/13, TTE showed small to moderate, organizing pericardial effusion. Septal bounce and shift with respiration, MV and AV doppler respiratory variation. Normal IVC size (1.7 cm) with inspiratory collapse. Overall, echo/Doppler suggests hemodynamic impact potentially aggravated by low volume status. Compared to prior TTE from 2/7/2022, there is no significant change in the size of pericardial effusion. He was diagnosed pericardial epithelioid mesothelioma c/b malignant pericardial and pleural effusions and constrictive pericarditis (EF 49%).

On 2/17/2022, he underwent pericardiectomy (performed by Dr. Boyd), Bilateral Pleurx catheters and resection of mediastinal mass and thymectomy by Dr. Backhus. He tolerated the procedure well, without complication. Postoperatively, with ongoing high-volume chest tube output and intraoperative concern for possible chylous malignant effusion, pleural fluid Triglycerides being negative. He was discharged home on POD 5 with low fat diet and recommended to drain no more than 1 L on each catheter daily Final pathology showed the thymus and pericardial tissue with malignant mesothelioma, epithelioid type. 1 lymph node with metastatic disease.

Since discharged home, patient's mom has been draining 1 L each catheter daily. Overall his respiratory status is under control.

# Case@13302825WBKK DDoc23483 FHeld0061/2/22 Entered0061/2/228886920 Desc Exhibitation of the state of th



STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500

Visit date: 3/7/2022

MRN: 36945558, DOB: 9/23/1998, Sex: M

Hernandez-Valdez, Anthony Michael

# Progress Notes by Backhus, Leah Monique, MD at 3/7/2022 3:00 PM (continued)

PALO ALTO CA 94305-2200

# **Review of Systems**

Constitutional: Negative for fever, chills, weight loss or malaise/fatigue.

HEENT: Negative for headaches, sore throat or stridor.

Cardiovascular: Negative for chest pain or palpitation.

Respiratory: Negative for cough, hemoptysis, sputum production, wheezing, shortness of breath or DOE.

Gastrointestinal: Negative for dysphagia, pyrosis, nausea, vomiting, diarrhea or constipation...

Neurological: Negative for bodyache, night sweat, numbness, tingling, weakness, gait or tremor, bone or joint pain, swelling.

All other systems reviewed and are negative.

#### **Active Problem List**

Diagnosis	Date Noted
Pericardial effusion	02/12/2022
Dyspnea	02/06/2022
Pleural effusion	02/06/2022
Mesothelioma (CMS-HCC)	01/30/2022

## **Past Medical History:**

Diagnosis Date

- Mesothelioma (CMS-HCC)
- Pericardial effusion
- Pleural effusion, malignant
- Pulmonary embolism (CMS-HCC)

#### **Past Surgical History:**

Procedure Laterality Date • BILATERAL PROCEDURE; SECONDARY MODIFIER N/A 2/17/2022 Performed by Backhus, Leah Monique, MD at STANFORD HOSPITAL 500P INTERVENTIONAL **PLATFORM** 

 CHEST DRAINAGE CATHETER INSERTION Bilateral 2/17/2022 Performed by Backhus, Leah Monique, MD at STANFORD HOSPITAL 500P INTERVENTIONAL **PLATFORM** 

 MEDIASTINAL LYMPHADENECTOMY, BILATERAL TUNNELED PLEURAL CATHETERS (PLEUR-X), POSSIBLE PLEURECTOMY, RADICAL PERICARDIECTOMY, THYMECTOMY WITH CPB STANDBY

2/17/2022

N/A

Performed by Boyd, Jack H, MD at STANFORD HOSPITAL 500P INTERVENTIONAL PLATFORM

 THYMECTOMY: MEDIAN STERNOTOMY APPROACH N/A 2/17/2022 Performed by Backhus, Leah Monique, MD at STANFORD HOSPITAL 500P INTERVENTIONAL **PLATFORM** 

#### **Allergies**

Allergen	Reactions
<ul> <li>Oxycodone</li> </ul>	Itching, pruritis
<ul> <li>Zofran [Ondansetron Hcl]</li> </ul>	Nausea, Vomiting, Dizziness
	and Headache

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STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500

Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/7/2022

PALO ALTO CA 94305-2200

Progress Notes by Backhus, Leah Monique, MD at 3/7/2022 3:00 PM (continued)

Outpatient Medications Marked as Taking for the 3/7/22 encounter (Office Visit) with Backhus Leah Monique MD

Visit) with Backhus, Leah Moniq	ue, MD		
Medication	Sig	Dispense	Refill
<ul> <li>acetaminophen (TylenoL) 325 mg TABS</li> </ul>	take 2 Tablets by mouth 2 times a day as needed		
<ul> <li>Cholecalciferol (Vitamin D3) (Vitamin D3) 2,000 unit CAPS</li> </ul>	take 1 Capsule by mouth every day		
Cyanocobalamin 1,000 mcg     SUBL	place 1 Tablet under the tongue and let dissolve every day		
<ul> <li>famotidine (Pepcid) 20 mg tablet</li> </ul>	take 1 Tablet (20 mg total) by mouth 2 times a day	60 Tablet	0
<ul> <li>LORazepam (Ativan) 1 mg tablet</li> </ul>	take 1 Tablet (1 mg total) by mouth every 8 hours as needed	30 Tablet	0
<ul> <li>metoprolol succinate (Toprol XL) 50 mg extended release tablet</li> </ul>	take 2 Tablets (100 mg total) by mouth daily	90 Tablet	3
<ul> <li>prochlorperazine (Compazine)</li> <li>10 mg tablet</li> </ul>	take 1 Tablet (10 mg total) by mouth every 6 hours as needed for Nausea/Vomiting	30 Tablet	3
<ul> <li>rivaroxaban (Xarelto) 20 mg TABS</li> </ul>	take 20 mg by mouth daily (Start after finishing 21 days of Xarelto 15 mg twice daily)		

No family history on file. **Social History** 

Occupational History	
<ul> <li>Not on file</li> </ul>	

1101 011 1110	
Tobacco Use	
<ul> <li>Smoking status:</li> </ul>	Never Smoker
<ul> <li>Smokeless tobacco:</li> </ul>	Never Used
Vaping Use	
<ul> <li>Vaping Use:</li> </ul>	Never used
Cultipate and a condition of A attivity	

Substance and Sexual Activity

 Alcohol use: Not Currently • Drug use: Never

 Sexual activity: Not Currently

# Case@13302825WBKK DDoc23483 FHeld0061/2/22 Entered0061/2/228886920 Desc Exhibitation of the state of th



STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500

Visit date: 3/7/2022

Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

PALO ALTO CA 94305-2200

Progress Notes by Backhus, Leah Monique, MD at 3/7/2022 3:00 PM (continued)

## **Physical Exam**

Filed Vitals:

03/07/22 1516

BP: 118/64 Pulse: 112 Resp: 16

36.8 °C (98.2 °F) Temp:

TempSrc: Oral SpO2: 100%

Weight: 105.8 kg (233 lb 4 oz)

General Appearance: No acute distress Neck: Supple and No lymphadenopathy

Lungs: Clear Auscultation bilaterally, no wheezing Cardiac: Regular rate and rhythm and Normal S1, S2

Abdomen: Normal bowel sounds, Soft, Nontender, No organomegaly and No Massess Palpable

Incisions: Healing normally, no signs or symptoms of infection. median sternotomy Well heal, dry and intact.

Removed all old chest tube and catheter sutures. Catheter site dry and intact.

Extremities: No edema, No clubbing, No cyanosis, Palpable pulses

Neuro: Alert and Oriented x 3 Skin: Warm, Dry and Clear

Musculoskeletal: Joints within normal

#### Pathology:

Results for orders placed or performed during the hospital encounter of 02/12/22 **Surgical Procedure** 

Narrative

Accession No: SHS-22-07213 SPECIMEN SUBMITTED:

A. THYMUS PERICARDIAL FAT B. PERICARDIUM AND TUMOR DIAGNOSIS (MICROSCOPIC):

- A. THYMUS AND PERICARDIAL FAT, EXCISION
- -- PERICARDIAL TISSUE WITH MALIGNANT MESOTHELIOMA, EPITHELIOID TYPE
- -- METASTATIC MALIGNANT MESOTHELIOMA COMPLETELY REPLACING ONE LYMPH NODE (1/1)
- -- EXTENSIVE VENOUS AND LYMPHATIC INVOLVEMENT BY MALIGNANT **MESOTHELIOMA**
- -- INVOLUTED THYMIC TISSUE
- B. HEART, PERICARDIUM AND TUMOR, EXCISION
- -- MALIGNANT MESOTHELIOMA, EPITHELIOID TYPE

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STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500 PALO ALTO CA 94305-2200 Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/7/2022

# Progress Notes by Backhus, Leah Monique, MD at 3/7/2022 3:00 PM (continued)

LIBERT/C. WANG/BERRY

COMMENT: We note the patient's recent diagnosis of metastatic malignant mesothelioma, epithelioid type (SHS-22-03759). The tumor present in the current resection specimen is morphologically similar.

ANCILLARY STUDIES: If ancillary studies are indicated they may be performed on block A2, which contains approximately 90% tumor. CLINICAL HISTORY: 23 year old male with mesothelioma of pericardium; Per EPIC: 23-year-old male with pericardial mesothelioma. He has been offered palliative pericardiectomy for tumor debulking with the hope of relieving his shortness of breath as well as PleurX catheter placement.

OPERATION: 1. Pericardiectomy (performed by Dr. Boyd) 2. Bilateral PleurX catheters

3. Resection of mediastinal mass and thymectomy OPERATIVE FINDINGS: 1. Large bilateral chylothoraces. 2. Diffuse tumor involvement of the pericardium with areas of invasion into the myocardium

CLINICAL DIAGNOSIS: 1. Pericardial mesothelioma. 2. Bilateral pleural effusions, chylothoraces. 3. Pericardial constriction. GROSS DESCRIPTION: Two specimens are received labeled with the patient's name and medical record number.

The first specimen labeled "thymus pericardial fat" is received in formalin and consists of multiple fragments of tan-yellow tissue, aggregate 11.0 x 9.5 x 3.0 cm. A photo is taken. Specimen is sectioned to reveal yellow lobulated cut surfaces with areas of white nodularity, up to 1.8 cm in greatest dimension. Representative sections, including candidate normal thymus, are submitted in A1-A4. The second specimen labeled "pericardium tumor" is received in formalin and consists of multiple roughened tan-brown tissue fragments, aggregate 7.5 x 7.0 x 2.0 cm. Sectioning reveals nodular tan-white cut surfaces. Representative sections are submitted in B1-B4. Mirbegian (2/21/2022)

I have reviewed the specimen and agree with the interpretation above. GERALD J. BERRY, M.D. Electronically signed 2/23/2022 1:21 PM

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Today 2 views CXR shows:

#### FINDINGS:

Similar positioning of bilateral chest tubes. Unchanged median sternotomy wires. Unchanged cardiomediastinal silhouette. Interval resolution of right pleural effusion. Left pleural effusion unchanged. No

# Case 223302825 WBKK DDoc 23483 Filled 0005 1/2/22 Elettered 0005 1/2/22083369220 DDesc Exhibitive bibitive 1815 to - Datties between exhibitive 1816 and 181



STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500 PALO ALTO CA 94305-2200 Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/7/2022

Progress Notes by Backhus, Leah Monique, MD at 3/7/2022 3:00 PM (continued)

visible pneumothorax.

#### IMPRESSION:

1. No significant interval change

# Impression / Plan

Anthony Michael Hernandez-Valdez is a 23 Y male diagnosed with malignant mesothelioma, epithelioid type, (pericardial mesothelioma), status post pericardiectomy and Pleurx placement on 2/17/2022. He has recover well. There is no sign of infection. Overall, his respiratory status remain stable. Dr/ Roy plan to start chemotherapy treatment 4 weeks after procedure (mid to the end of March).

However, his bilateral Pleurx catheter still drain 1 L milky fluid daily. Will resend fluid for chylomicrons and triglycerides to rule out chyle leak. If tested positive, will discuss with Dr. Roy for a trail of Octreotide SQ.

Our office will notified him/his mother in regards tests result and next follow up appointment.

He will continue to drain bilateral catheter daily and Low fat diet. He will continue to follow up with thoracic oncology and cardiology.

The patient and his aunt verbalized understanding the instruction. Given office contact number for any questions or concerns.

The patient was seen and examined by myself and Dr. Backhus in the clinic

Angela Y Lee, NP

I, Leah Monique Backhus, MD, performed a substantive portion of an E/M visit face-to-face with the same patient on the same date of service with the Advanced Practice Provider (APP). I was personally involved in reviewing and conducting elements of the history, physical exam and/or medical decision making including the information as described below:

Mr. Hernandez-Valdez has done very well following his pericardiectomy and pleur-x drain placements. He continues to drain more than 1L per side each day. Grossly the fluid is consistent with chylothorax, but triglycerides have been low x 2. Now that he is on a relatively normal diet, will recheck today as well as chylomicrons. If positive, he should be started on octreotide in an attempt to reduce the volume. He was counseled on the importance of keeping up with his hydration given all of the insensible losses from his pleural space daily. Will follow up on pleural studies and coordinate with Dr. Roy re: outpatient octreotide therapy.

Leah M. Backhus MD MPH FACS Thoracic Surgery

Electronically signed by Backhus, Leah Monique, MD at 3/17/2022 10:59 AM

Progress Notes by Roy, Mohana, MD at 3/14/2022 1:00 PM

# Case@13302825WBKK DDoc23483 FHeld0061/2/22 Entered0061/2/228886920 Desc Exhibit Abibit A



CANCER CENTER SOUTH Hernandez-Valdez, Anthony Michael BAY

MRN: 36945558, DOB: 9/23/1998, Sex: M 2589 SAMARITAN DR Visit date: 3/14/2022

SAN JOSE CA 95124-3908

# Progress Notes by Roy, Mohana, MD at 3/14/2022 1:00 PM (continued)

-Using Lorazepam 1 mg as needed

#Cardiac Management-in discussing the case with Dr. Boyd and Dr. Backus and reviewing the operative reports, he has still significant mesothelial tumor involvement around his heart and some into the myocardium. Recommend continuing metoprolol succinate 75 mg daily.

- -Repeat ECHO
- -off colchicine

# #Thrombosis - non occlusive thrombus bilateral internal jugular and left brachiocephalic veins #Right subsegmental PE:

He is still on rivaroxaban 15 mg daily with the initial loading. And will transition to 20 mg daily. -can consider anti-XA level if worried about DOAC inefficacy

# # Acid reflux

#### # Nausea

- Continue compazine as needed
- -Continue Pepcid twice a day

RTC scheduled 3/18/22

As usual, I encouraged the patient to contact us should be develop any new symptoms or have any questions or concerns

Mohana Roy, MD Clinical Assistant Professor-Oncology Stanford Cancer Center Palo Alto and South Bay

Electronically signed by Roy, Mohana, MD at 3/15/2022 9:23 AM

# Progress Notes by Roy, Mohana, MD at 3/18/2022 9:00 AM

Author: Roy, Mohana, MD Service: Oncology Author Type: Physician Filed: 3/29/2022 8:13 AM Encounter Date: 3/18/2022 Note Type: Progress Notes

Status: Addendum Editor: Roy, Mohana, MD (Physician)

Related Notes: Original Note by Roy, Mohana, MD (Physician) filed at 3/19/2022 11:12 AM



Stanford Thoracic Oncology Clinic **Return Patient Visit** Palo Alto

Printed on 3/31/22 11:07 AM

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STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500 PALO ALTO CA 94305-2200 Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/18/2022

# Progress Notes by Roy, Mohana, MD at 3/18/2022 9:00 AM (continued)

RE:

Dr. Leah Backhus Dr. Han Zhu Dr. Josh Fronk

MRN: 36945558 DOB: 9/23/1998

## **History of present illness:**

Anthony Michael Hernandez-Valdez is a 23 Y old male who was recently diagnosed with epithelioid mesothelioma, suspect pericardial primary, here for followup after hospitalization and pericardiectomy

His oncologic history is summarized as follows:

2020: Developed cough and shortness of breath. Had been admitted with several echocardiograms performed, which showed pericardial effusions. Has only been treated on colchicine and prednisone.

1/4/22: Developed worsening adenopathy and neck swelling and underwent a CT neck for left sided neck swelling. Imaging revealed abnormal shotty appearing lymph nodes along the left neck and left neck soft tissue spaces including the left jugulodigastric which is enlarged measuring 1.3 cm. Numerous posterior cervical lymph nodes and bilateral supraclavicular lymph nodes.

CT chest revealed worsening lobulated masslike pericardial effusion. Worsening multiple enlarged neck soft tissue lymph nodes and subcutaneous soft tissue edema extending through the chest wall to level of the trachea. Notable supraclavicular, mediastinal, and retroperitoneal lymphadenopathy. Small pleural effusion.

1/10/22: Underwent right paratracheal (R4) lymph node biopsy. Path revealed mesothelioma, epithelioid type.

1/28/2022: Initial Thoracic Oncology Visit (Roy)

1/31/22: AFP, LDH, beta HCG, uric acid levels are wnl.

2/3/22: Scrotal ultrasound is negative.

2/6/22- SHC admission for shortness of breath-initially relieved by 2 thoracentesis with 1-1/2 L taken out on each side. Pleural fluid confirms malignant cells, morphologically similar to mesothelioma.

2/12/-2/22/SHC readmission with worsening respiratory status, concern for right-sided heart failure and will remain tachycardic.

He underwent Pericardiectomy (performed by local Dr. Boyd) Bilateral PleurX catheters, Resection of mediastinal mass and thymectomy on 2/17/22

**OPERATIVE FINDINGS:** 

- 1. Large bilateral chylothoraces.
- 2. Diffuse tumor involvement of the pericardium with areas of invasion into the myocardium

3/18/22 CT Chest- Similar to 2/26/2022, multiple pericardial masses nearly encasing the heart, thoracic lymphadenopathy, retrocrural lymphadenopathy, and adjacent right upper lobe and right middle lobe

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STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500 Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/18/2022

PALO ALTO CA 94305-2200

# Progress Notes by Roy, Mohana, MD at 3/18/2022 9:00 AM (continued)

interlobular septal thickening, concerning for residual/recurrent malignancy. Interlobular septal thickening may represent lymphangitic carcinomatosis versus lymphatic obstruction. Interval increase in extensive filling defects throughout the venous system, including left internal jugular, left brachiocephalic, right internal jugular, right brachiocephalic, and right vertebral veins. No evidence of extension of the thrombus into the superior vena cava

#### **Interval History**

He is feeling okay overall

He had SOB and feeling unwell after taking dexamethasone 4 mg yesterday

He continues to drain 1 L on each side with the Pleurx catheter every day- slight decrease seen on right side No otherwise SOB, palpitations, chest pain

Still having issues in having adequate drainage supplies - pictures of drainage with white milky fluid

#### **Review of systems:**

A comprehensive 14-point review of systems was performed, with pertinent positives as noted above; all other systems negative.

#### Past medical history:

Anxiety Appendicitis

# Past surgical history:

**Past Surgical History:** 

Procedure

• BILATERAL PROCEDURE; SECONDARY MODIFIER

• BILATERAL PROCEDURE; SECONDARY MODIFIER

Performed by Backhus, Leah Monique, MD at STANFORD HOSPITAL 500P INTERVENTIONAL PLATFORM

CHEST DRAINAGE CATHETER INSERTION
 Bilateral 2/17/2022
 Performed by Backhus, Leah Monique, MD at STANFORD HOSPITAL 500P INTERVENTIONAL
 PLATFORM

• MEDIASTINAL LYMPHADENECTOMY, BILATERAL N/A TUNNELED PLEURAL CATHETERS (PLEUR-X), POSSIBLE PLEURECTOMY, RADICAL PERICARDIECTOMY,

THYMECTOMY WITH CPB STANDBY

Performed by Boyd, Jack H, MD at STANFORD HOSPITAL 500P INTERVENTIONAL PLATFORM

THYMECTOMY; MEDIAN STERNOTOMY APPROACH N/A 2/17/2022
 Performed by Backhus, Leah Monique, MD at STANFORD HOSPITAL 500P INTERVENTIONAL
 PLATFORM

Appendectomy 2009

#### Medications:

**Outpatient Medications Prior to Visit** 

Outpution incurations i not to viole					
Medication	Sig	Dispense	Refill		
<ul> <li>acetaminophen (TylenoL) 325 mg TABS</li> </ul>	take 2 Tablets by mouth 2 times a day as needed				
<ul> <li>Cholecalciferol (Vitamin D3)</li> </ul>	take 1 Capsule by				

2/17/2022

# Case 223302825 MBBK DDo 23483 FHeld 0005 1/0/222 Entetered 0005 1/0/2228869220 DDesc Exhibitative it is the Datties levied by larection at it is ARTP age Plage 1947 of 225



STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500

Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/18/2022

PALO ALTO CA 94305-2200

	PALO ALTO CA 9430	5-2200		
Progress Notes by Roy, Moha	na, MD at 3/18/2022	2 9:00 AM (	continue	d)
(Vitamin D3) 2,000 unit CAPS	mouth every day			
<ul> <li>Cyanocobalamin 1,000 mcg SUBL</li> </ul>	place 1 Tablet under the tongue and let dissolve every day			
<ul> <li>dexAMETHasone (Decadron) 4 mg tablet</li> </ul>	take 1 Tablet (4 mg total) by mouth as directed Take once daily on the day before, the day of and the day after pemetrexed (ALIMTA).	30 Tablet	2	
<ul> <li>famotidine (Pepcid) 20 mg tablet</li> </ul>	take 1 Tablet (20 mg total) by mouth 2 times a day	60 Tablet	0	
<ul> <li>LORazepam (Ativan) 1 mg tablet</li> </ul>	take 1 Tablet (1 mg total) by mouth every 8 hours as needed	30 Tablet	0	
<ul> <li>metoprolol succinate (Toprol XL) 50 mg extended release tablet</li> </ul>	take 2 Tablets (100 mg total) by mouth daily	90 Tablet	3	
<ul> <li>octreotide (SandoSTATIN) 100 mcg/mL injection</li> </ul>	inject 1 mL (100 mcg total) subcutaneous (under the skin) every 8 hours	90 Vial	0	
ondansetron 8 mg tablet	take 1 Tablet (8 mg total) by mouth every 8 hours as needed For nausea and vomiting	30 Tablet	5	
<ul> <li>prochlorperazine (Compazine)</li> <li>10 mg tablet</li> </ul>	take 1 Tablet (10 mg total) by mouth every 8 hours as needed For nausea or vomiting	30 Tablet	5	
<ul> <li>prochlorperazine (Compazine)</li> <li>10 mg tablet</li> </ul>	take 1 Tablet (10 mg total) by mouth every 6 hours as needed for Nausea/Vomiting	30 Tablet	3	
<ul> <li>rivaroxaban (Xarelto) 20 mg TABS</li> </ul>	take 20 mg by mouth daily (Start after finishing 21 days of Xarelto 15 mg twice daily)			

No facility-administered medications prior to visit.

## **Allergies:**

# Case 223302825 MBKK DDoc 23483 Filled 0005 1/2/2/22 Elatered 0005 1/2/2/2208869220 DDesc Exhibitiva bibitiva 1811 to 18 betyeddeyl Drecilen action ARTP age Plager 1971 of 225



STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500

PALO ALTO CA 94305-2200

Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/18/2022

# Progress Notes by Roy, Mohana, MD at 3/18/2022 9:00 AM (continued)

NKDA

#### Social history:

Father works in construction and may have exposures, however only started in the past couple of years Previously attended school in an old building, no clear asbestos exposure

Mother reports using large amounts of baby powder (Johnson and Johnson) in his childhood

No other exposures to hair salon products, chemicals in labs

Works at Home Depot

**EtOH** socially

No recreational drug use

## Family history:

Father had ?bone cancer

Maternal aunt had early age breast cancer (diagnosed at age 33) and AML (diagnosed 35)

#### **BRCA** mutation:

- Mother, maternal grandmother, maternal aunts x 2

#### **Physical Exam:**

**Filed Vitals:** 

03/18/22 0958

BP: 118/66 Pulse: 115 SpO2: 98%

Weight: 102.9 kg (226 lb 13.7 oz)

General: Well-appearing and speaking in full sentences

CV: tachycardic, regular rhythm Lungs: decreased at bases bilaterally

Abdomen: healed sternotomy scar, inspected both his drain sites which are overall clean and intact, the one

on the left does have slightly increased granulation tissue

Extremities- without edema

#### Labs and studies:

Reviewed in epic, white count 11.3, hemoglobin is stable at 12.9, sodium is getting lower at 129 and we will have to monitor that

#### +chylous fluid on pleural effusion

#### Imaging:

As in HPI

Most recent review in tumor board of CTA 2/26/22

#### Pathology:

# 2/25/22 Pericardiectomy Specimen Review

A. THYMUS PERICARDIAL FAT

B. PERICARDIUM AND TUMOR

DIAGNOSIS (MICROSCOPIC):

# Case 223302825 MBLK DiDo 23483 FHidd 00 61/2/222 Elettered 00 61/2/22088369220 DiDesc Exhibit x bibit x bibit x b- Datties betyed eyl area bian at iBARTP age Pasgef 367 of 225



STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500

PALO ALTO CA 94305-2200

Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/18/2022

Progress Notes by Roy, Mohana, MD at 3/18/2022 9:00 AM (continued)

A. THYMUS AND PERICARDIAL FAT, EXCISION

- -- PERICARDIAL TISSUE WITH MALIGNANT MESOTHELIOMA, EPITHELIOID TYPE
- -- METASTATIC MALIGNANT MESOTHELIOMA COMPLETELY REPLACING ONE LYMPH NODE (1/1)
- -- EXTENSIVE VENOUS AND LYMPHATIC INVOLVEMENT BY MALIGNANT MESOTHELIOMA
- -- INVOLUTED THYMIC TISSUE
- B. HEART, PERICARDIUM AND TUMOR, EXCISION
- -- MALIGNANT MESOTHELIOMA, EPITHELIOID TYPE LIBERT/C. WANG/BERRY

COMMENT: We note the patient's recent diagnosis of metastatic malignant mesothelioma, epithelioid type (SHS-22-03759). The tumor present in the current resection specimen is morphologically similar.

#### Stanford Review

**DIAGNOSIS:** 

LYMPH NODES. RIGHT LOWER PARATRACHEAL/4R, EXCISIONAL BIOPSY (1/10/22; 22MS-133)

-- HISTOLOGIC AND IMMUNOPHENOTYPIC FINDINGS SUPPORTING **METASTATIC MALIGNANT MESOTHELIOMA, EPITHELIOID TYPE.** 

COMMENT: I have reviewed the H&E stained slides and accompanying immunostains and agree with Dr. Silveira as listed above. In light of the unusual diagnosis in this age group I performed a battery of immunostains in our lab along with additional H&E stained slides. The neoplastic cells within the lymph node show the following immunophenotypic profile: WT1 positive, P40 negative, CK5/6 positive, D2-40 positive, BAP1 retained, BerEP4 negative, calretinin positive, Claudin4 negative. This supports metastatic malignant mesothelioma, epithelioid type. The findings are consistent with pericardial origin.

#### EBUS of 4R 1/10/22:

Immunostain for cytokeratin AEI/AE3, cytokeratin 7, and cytokeratin 5/6 are diffusely positive. Both calretinin and WT1 display nuclear staining of tumor.

Ki-67 highlights around 25% of nuclei. Thrombomodulin stains tumor weakly (the external control stains no better). MOC31, BER-EP4, PAXB, thyroglobulin, CD5, p40, OCT-4, and CD117 are all negative. CD3/CD20 immunostain cocktail displays background aggregates of B cells, with surrounding T cells. Immunostain cocktail displays no nuclear uptake with TTF-1 and no cytoplasmic staining with napsin A

Flow cytometry on tissue from part 2 was performed at NeoGenomics. Viability is poor (<50%) and most cells appear non-hematopoietic. Residual lymphocytes (11% of total) are primarily T cells (68%), with CD4/CD8 ratio of 1.6, and no loss of antigens. Please see appended report for additional details.

#### Molecular:

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STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500 PALO ALTO CA 94305-2200 Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/18/2022

Progress Notes by Roy, Mohana, MD at 3/18/2022 9:00 AM (continued)

## 2/4/22 Guardant peripheral- negative

#### **STAMP 1/26/22**

#### **SUMMARY OF FINDINGS**

Estimated tumor mutation burden: 3.0 mut/Mb<sup>†</sup>

The following variants are not known to be clinically relevant at this time:

ATRT1180A (Unknown significance)

NTRK3 G642R (Unknown significance)

TERT E441del (Unknown significance)

Please see the following pages for variant annotations.

## **Fusion STAMP pending**

#### **Assessment & Plan:**

Anthony Michael Hernandez-Valdez is a 23 Y old male with newly diagnosed pericardial mesothelioma, status post pericardiectomy and Pleurx placement on 2/17/2022, here for follow-up and initiation of first cycle of chemotherapy.

#### #Epithelioid mesothelioma, pericardial-metastatic

We had previously discussed that this appears to be a primary mesothelioma of the pericardium which is exceedingly rare, even within the rare diagnosis of mesothelioma in general. In addition him being so young and age makes this additionally difficult.

- -Today- starting C1D1 Carboplatin AUC 5, pemetrexed 375 mg/m<sup>2</sup> to be given for 4-6 cycles
- -Emend given today but unfortunately he had a reaction to this in the infusion center- will avoid for future use -Ativan 1 mg p.o. given baseline anxiety
- -We will also avoid dexamethasone going forward unless needed given his reported reaction to it
- -He will have cancer genetics consultation soon and as well as palliative care

## #Chylous Pleural Effusions- discussed with Dr. Backhus-

- -Continuing to drain Pleurx 1 L each side
- -Plan to start octreotide 100 mics 3 times daily-he is concerned about giving himself the shot so we will circle back next week on timing of starting this pending how he is doing with chemotherapy

#### #Anxiety-baseline with coping of new diagnosis

Contacted Ms. Pam Simon in AYA group- for helping support him.

- -Has upcoming initial consultation and meeting with Dr. Fronk in palliative care
- -Using Lorazepam 1 mg as needed

**#Cardiac Management-**in discussing the case with Dr. Boyd and Dr. Backus and reviewing the operative reports, he has still significant mesothelial tumor involvement around his heart and some into the myocardium. Recommend continuing metoprolol succinate 75 mg daily.

- -Repeat ECHO
- -off colchicine

**#Thrombosis -** non occlusive thrombus bilateral internal jugular and left brachiocephalic veins-extension seen on recent CT, likely also due to impaired venous drainage from tumor burden

#### #Right subsegmental PE:

He is still on rivaroxaban 15 mg daily with the initial loading- and now on 20 mg daily. -can consider anti-XA level if worried about DOAC inefficacy

Printed on 3/31/22 11:07 AM

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STANFORD ADVANCED MEDICINE CENTER 300 PASTEUR DRIVE MC:5500 Hernandez-Valdez, Anthony Michael MRN: 36945558, DOB: 9/23/1998, Sex: M

Visit date: 3/18/2022

PALO ALTO CA 94305-2200

# Progress Notes by Roy, Mohana, MD at 3/18/2022 9:00 AM (continued)

#### # Acid reflux

#### # Nausea

- Continue compazine as needed
- -Continue Pepcid twice a day

RTC scheduled for chemo cycles, will also request 1 week video visit check-in

As usual, I encouraged the patient to contact us should he develop any new symptoms or have any questions or concerns

Mohana Roy, MD Clinical Assistant Professor-Oncology Stanford Cancer Center Palo Alto and South Bay

Electronically signed by Roy, Mohana, MD at 3/29/2022 8:13 AM

# Progress Notes by Thai, Quan B, NP at 3/18/2022 5:33 PM

Author: Thai, Quan B, NP Service: Oncology Author Type: Nurse Practitioner

Filed: 3/18/2022 6:05 PM Date of Service: 3/18/2022 Note Type: Progress Notes

5:33 PM

Status: Addendum Editor: Thai, Quan B, NP (Nurse Practitioner)

Related Notes: Original Note by Thai, Quan B, NP (Nurse Practitioner) filed at 3/18/2022 6:02 PM

Stanford Hospital and Clinics ITA Sick Call Progress Note

Today's Date:3/18/2022

Attending Provider: Mohana Roy, MD

Patient's Name: Anthony Michael Hernandez-Valdez

Medical Record Number:36945558

#### Impression:

Anthony Michael Hernandez-Valdez is a 23 Y patient who has newly diagnosed ephithelioid mesothelioma, suspect pericardal primary s/p pericardiectomy who presents for C1 carboplatin/pemetrexed.

**Reason for Sick Call APP assessment**: Infusion reaction to fosaprepitant which was stopped and disconnected by infusion RN.

#### ROS:

- Pt developed throat tightening briefly, shortness of breath.
- Throat tightening resolved with stopping the infusion. Shortness of breath persisted.
- No flushing/rash/pruritis/rigors/fevers/CP

# World Health Organization Classification of Tumours

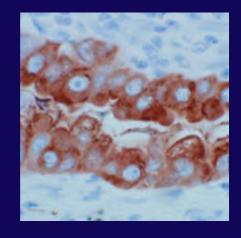


# Pathology & Genetics

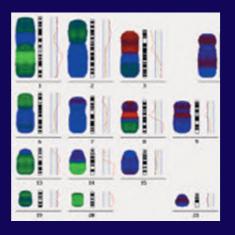
# **Tumours of the Lung, Pleura, Thymus and Heart**

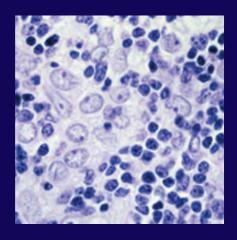
Edited by William D. Travis, Elizabeth Brambilla, H. Konrad Müller-Hermelink and Curtis C. Harris

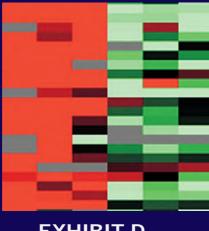












**EXHIBIT D** 

# World Health Organization Classification of Tumours

**WHO** 



**OMS** 

International Agency for Research on Cancer (IARC)

# Pathology and Genetics of Tumours of the Lung, Pleura, Thymus and Heart

Edited by

William D. Travis

Elisabeth Brambilla

H. Konrad Müller-Hermelink

Curtis C. Harris

IARC*Press* 

Lyon, 2004

# **Pericardial tumours**

A. Burke

R. Loire

R. Virmani

## Solitary fibrous tumour

#### **Definition**

An uncommon, spindle-cell, fibroblastic tumour which often shows a prominent haemangiopericytoma-like vascular pat-

#### ICD-O code

Solitary fibrous tumour 8815/1

#### **Synonyms**

Benign mesothelioma, fibrous mesothelioma, submesothelial fibroma

#### Localization

The most common locations, outside the pleura, include the head and neck, especially orbit, soft tissue, especially abdomen, extremities, and meninges {233,1384,1473}. As with any lesion common to the pleura, there have been examples of solitary fibrous tumour reported in the pericardium and rarely within the heart.

#### **Clinical features**

Clinical features are related to pericardial mass effect.

#### Macroscopy

Solitary fibrous tumours tend to be wellcircumscribed, firm, fleshy or white

although diffuse mesothelial surface involvement has been described.

#### Histopathology

Histologic variability is the rule and multiple growth patterns have been described. Most tumours will have a predominant monomorphic spindle cell pattern resembling low-grade fibrosarcoma although broad tumour cell fascicles are rare. Areas of hypercellularity typically alternate with those that are less cellular. The less cellular areas can by myxoid or contain abundant collagen {459}. Typically the nuclei of tumour cells are closely apposed to collagen bundles. A haemangiopericytoma-like vascular pattern may be conspicuous, present in a small portion of the lesion, or absent. The differential diagnosis includes other monomorphic spindle cell tumours, including neurogenic tumours, spindle cell mesotheliomas, monophasic synovial sarcoma, and fibrosarcoma {1311}. Recently, desmoid tumour of the pleura has been added in the list of differential diagnostic considerations {2151}. See pleural section for additional information.

#### *Immunoprofile*

Solitary fibrous tumours are CD34 and bcl-2 positive. They are consistently negative for epithelial markers, muscle spe-

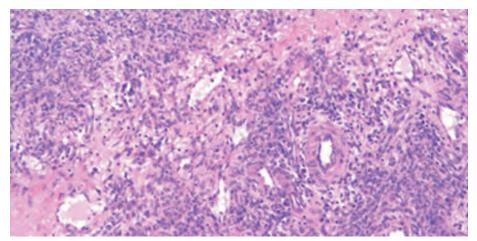


Fig. 4.40 Localized fibrous tumor of the mesothelium is identical in appearance to those of the pleura. Note the spindle cell growth with prominent vascularity and variable cellularity.



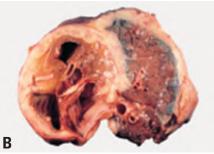


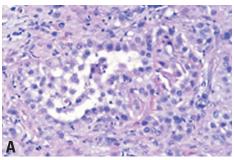
Fig. 4.39 Mesothelioma of pericardium. A Note the extensive tumour encasing the pericardium. B In many cases, the pericardial mass is in continuity with pleural mesothelioma.

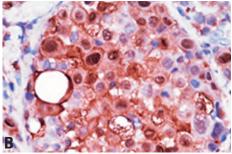
cific actin, desmin, CD31, CD117 (c-kit), S-100 protein calretinin, and inhibin {596,772,1473,2127}.

#### Differential diagnosis

Sarcomatous mesotheliomas of the pericardium are distinguished from solitary fibrous tumours by their diffuse growth pattern, and keratin and calretinin reactivity. On the other hand, solitary fibrous tumour may closely mimic monophasic synovial sarcoma and low- grade fibrosarcoma. Fibrosarcoma tends to be more architecturally monomorphic and negative for CD34. Monophasic synovial sarcoma has higher grade cytology, plumper nuclei and shows focal keratin reactivity. Endometrial stromal sarcoma, and metastatic granulosa cell tumour may be excluded by negative reactivity for cytokeratin, estrogen and progesterone receptors, and inhibin.

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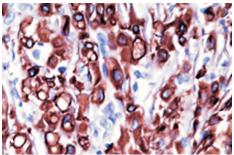


Fig. 4.41 Pericardial mesothelioma. A The majority of pericardial mesotheliomas are epithelioid. B Strong expression of calretinin. C Strong expression of cyto-keratin 7.

#### **Prognosis and predictive factors**

The prognosis is generally good, although recurrences and local spread have been reported. Criteria for malignancy of pleural tumours include necrosis and a mitotic count of greater than 4 per 10 high powered fields, but the applicability of these criteria to tumours in the heart and pericardium is unknown.

## Malignant mesothelioma

#### **Definition**

Malignant mesothelioma arises from mesothelial cells or demonstrates mesothelial differentiation. The definition of primary pericardial mesothelioma stipulates that there is no tumour present outside the pericardium, with the exception of lymph node metastases.

**ICD-O code** 9050/3

#### **Epidemiology**

Mesothelioma of the pericardium represents approximately 0.7% of malignant mesotheliomas {831}. As with mesotheliomas in other sites, the incidence may be increasing, due to the latency between asbestos exposure and tumour development {1074}.

#### **Etiology**

Like pleural mesotheliomas, a large proportion of mesotheliomas of the pericardium are induced by asbestos {1074}. Iatrogenically induced pericardial mesotheliomas have been reported decades after exposure to pericardial dusting with asbestos and fibreglass as a treatment for angina pectoris. Therapeutic radiation for breast cancer and mediastinal lymphoma has also been implicated in rare patients. However, there remains a subset of

patients with mesothelioma who have no known exposure history.

#### **Clinical features**

#### Signs and symptoms

The mean age of patients with pericardial mesothelioma is about 45 years, with a wide age range, including elderly, older children and young adults. The initial course is usually related to pericardial effusions. Tamponade may eventually occur {1202}.

#### **Imaging**

Echocardiography usually shows pericardial effusions and may show pericardial thickening. However, because pericardium is at the periphery of the field of view obtainable with echocardiography, MRI or CT are usually necessary. MRI and CT usually demonstrate pericardial fluid as well as pericardial thickening and/or pericardial masses {737}.

#### Macroscopy

Malignant mesotheliomas of the pericardium can form bulky nodules that fill the pericardial cavity. The tumour can also spread diffusely over the pericardial surface and completely encase the heart. They can further encircle the great vessels and may obstruct the venae cavae.

#### Histopathology

Malignant mesotheliomas of the pericardium resemble pleural mesotheliomas. Although the majority are of the epithelioid type, forming tubules, papillary structures, and cords of infiltrating cells that can incite a desmoplastic response, the sarcomatous variant is also common. Variants similar to those described in the pleura may also be seen in the pericardium e.g. microcystic, adenomatoid, deciduoid {1649,1802}.

#### *Immunoprofile*

The immunohistochemical profile of pericardial mesothelioma is similar to that of pleural mesothelioma. Expression of mesothelial antigens, such as calretinin, and cytokeratins 5/6 are helpful in the diagnosis, as are negative reactions for adenocarcinoma markers, such as carcinoembryonic antigen.

#### **Electron microscopy**

Ultrastructurally, mesothelioma cells from epithelioid areas contain branched, bushy microvilli. Cytoplasmic tonofibrils are present in approximately 50% of tumours. Asbestos bodies may be identified within pericardial mesothelioma, but are of no diagnostic utility.

#### **Differential diagnosis**

The distinction between mesothelioma and pleural-based lung adenocarcinoma can be quite difficult, and is generally based on immunohistochemical findings. Distinction from reactive mesothelial cell proliferations may also be difficult; in comparison to reactive pleural mesothelial proliferations, reactive pericardial mesothelial cells may be more deeply "invasive". Reactive stromal cells may also often attain bizarre and pleomorphic shapes, confusing the histopathologic picture. Other malignancies that may be confused with mesothelioma include pericardial-based angiosarcoma, which may elicit a prominent mesothelial response, malignant solitary fibrous tumour and synovial sarcoma. Immunohistochemistry is invaluable in such circumstances. Mesothelioma lacks the X;18 translocation of synovial sarco-

#### Prognosis and predictive factors

The prognosis of pericardial mesothelioma is poor. Fifty per cent of patients

# Exhibit B

# Case 223302825 MBEK DiDo 23483 FHidd 00 51/2/222 Entremed 00 51/2/2208836920 DiDesc Exhibit x bibit x

#### **Ian Rivamonte**

**From:** Joseph D. Satterley

**Sent:** Tuesday, May 10, 2022 11:03 AM

**To:** James Murdica; Gregory M. Gordon; Alex Calfo; kfournier@kslaw.com;

allison.brown@skadden.com

Cc: Steven Kazan; David M. McClain; Denyse F. Clancy; Ian Rivamonte

**Subject:** Hernandez-Valadez - economist report

Attachments: Economic Report, Robert Johnson, Valadez, Anthony(3164928.1).pdf

Jim,

Good seeing you in New York today. I am following up on my previous letter on Anthony's case.

Attached is the economist report showing the economic loss (not including medical bills) is over \$3.6 million.

Please let me know if you need any additional information to quickly resolve this case.

Thank you.

Joseph D. Satterley

# ECONOMIC IMPACT REPORT

Robert W. Johnson & Associates

4984 El Camino Real Suite 210 Los Altos, CA 94022

PERSONAL INJURY Economic Impact Report

Anthony Valadez

Robert W. Johnson & Associates Los Altos, CA

# Case 223302825 MBBK DDoc 231833 FHidd 00 51/0 1/222 Entremed 00 51/0 1/220886920 Desc Exhibit x bibit x bibit

FORENSIC ECONOMISTS

May 2, 2022

Mr. Joseph Satterley Kazan, McClain, Satterley & Greenwood 55 Harrison Street, Suite 400 Oakland, CA 94607

Re: Anthony Valadez

Dear Mr. Satterley:

I have examined the information given to Robert W. Johnson & Associates regarding Mr. Anthony Valadez and his pecuniary losses. Based on this data, I have calculated the present cash value of his economic loss using generally accepted statistical techniques and econometric methods of analysis. My opinion on this matter is set forth below. This economic analysis does not include any possible damages for Mr. Valadez's non-economic damages.

This economic loss evaluation presumes several economic relationships regarding inflation, wages and wage growths. These relationships were empirically determined based on over 50 years of post-World War II economic data (please see the discussion of economic assumptions). Interest rates are those that are currently available.

	Total Present
	Value
Expected Income	\$1,931,573
Social Security Income	\$375,042
Household Services	\$1,380,642
TOTALS:	\$3,687,257

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If we can be of further assistance, please call either of us.

Very truly yours,

Robert W. Johnson

James A. Mills

# 

# PERSONAL INJURY - ECONOMIC IMPACT REPORT Re: Anthony Valadez

Name: Mr. Anthony Valadez

Date of birth: 9/23/1998

Age at date of loss: 23

Gender: Male

Date of loss: 1/4/2022 Date of report: 5/2/2022

Expected Employment: Retail Sales Associate

This report quantifies the economic damages of this case. It does not include any non-economic damages.

All future losses, expenses, mitigating income, etc. (if applicable), beyond the current year are brought to a present value using the appropriate discount rates as discussed on the following page(s).

# 

# PERSONAL INJURY - ECONOMIC IMPACT REPORT Re: Anthony Valadez

This analysis calculates the present value of Mr. Valadez's economic damages, starting 1/4/2022, until the end of his life expectancy. Future economic damages are reduced to present value using current U.S. Treasury (zero coupon strips) yields for each respective year in the future. This analysis does not consider loss of society or any other non-economic issue. This economist reserves the right to amend this opinion based upon more current or relevant data and evidence admitted at the time of trial.

# **Expected Income:**

This analysis estimates Mr. Valadez's Expected Income for the remainder of 2022 to be \$30,936, in 2023 through 2062 to be \$31,248 per annum, and in 2063 to be \$22,811 as a retail sales associate based on information supplied by 1040 tax forms\*. Mr. Valadez's fringe benefits are estimated to be 9.25% of his Expected Income based on information supplied by counsel, the U.S. Bureau of Labor Statistics, and the Social Security Administration. Mr. Valadez's Expected Income is increased by an average growth rate of 3.9%. Mr. Valadez's Expected Income is calculated until the end of his work-life capacity in the year 2063.

# Social Security Income:

This analysis estimates Mr. Valadez's Social Security Income for the remainder of 2065¹ to be \$4,623, in 2066 through 2077 to be \$17,124 per annum, and in 2078 to be \$12,501 based on information supplied by the Social Security Administration\*. Mr. Valadez's Social Security Income is increased by an average growth rate of 3.5%. Mr. Valadez's Social Security Income is calculated until the end of his life expectancy in the year 2078.

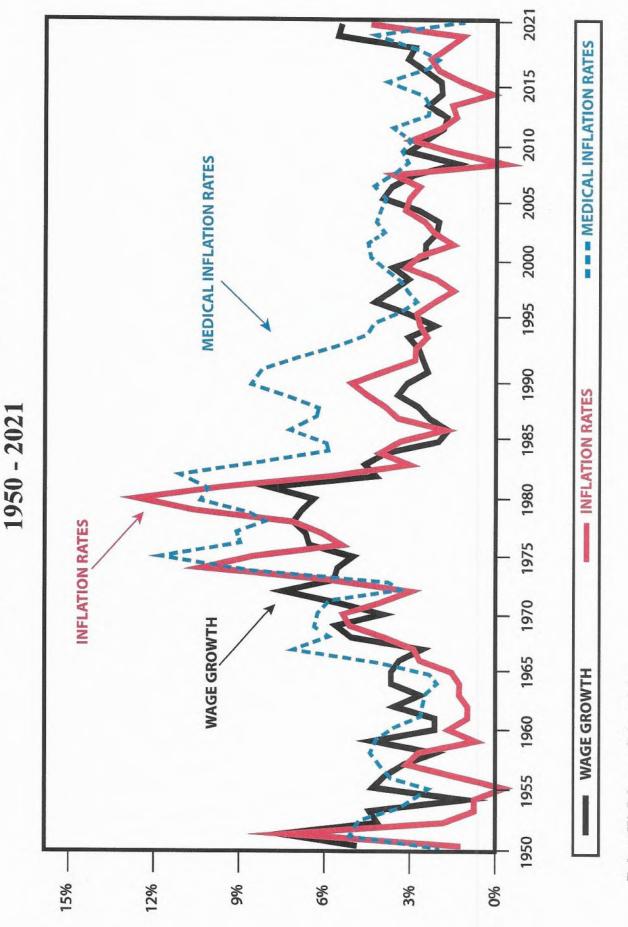
#### Household Services:

This analysis estimates Mr. Valadez's Household Services for the remainder of 2022² to be \$13,048, in 2023 through 2062 to be \$14,338 per annum, in 2063 to be \$16,274, in 2064 through 2075 to be \$21,508 per annum, and in 2076 to be \$15,701 based on information supplied by the 2020 Dollar Value of a Day Study\*. Mr. Valadez's Household Services are increased by an average growth rate of 3.9%. Mr. Valadez's Household Services are calculated until the end of his life expectancy, less two years.

<sup>&</sup>lt;sup>1</sup> This analysis begins calculating Mr. Valadez's Social Security Income loss on 9/23/2065, at age 67.

<sup>&</sup>lt;sup>2</sup> This analysis begins calculating Mr. Valadez's Household Services on 2/1/2022, per counsel.

<sup>\*</sup> This is not the Future Value adjusted for growth.

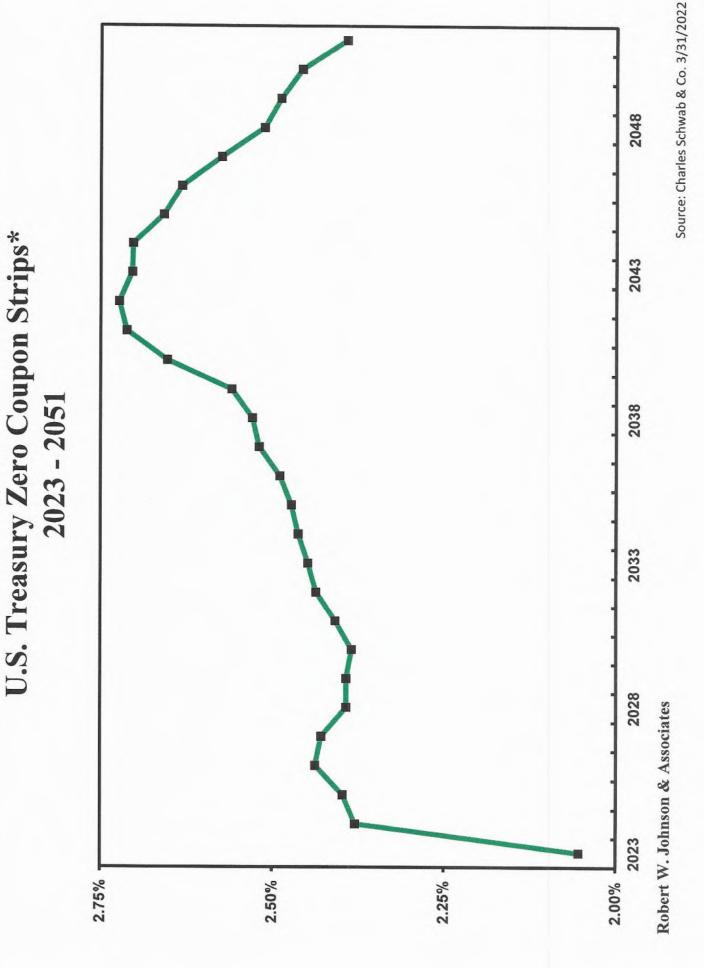


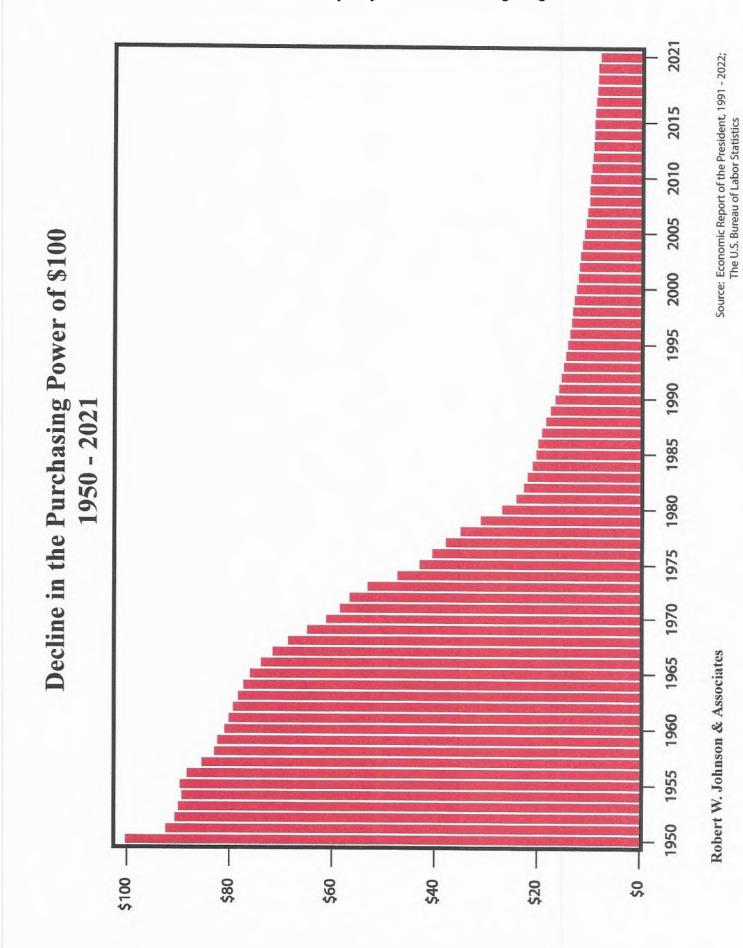
Wage Growth & Inflation Rates

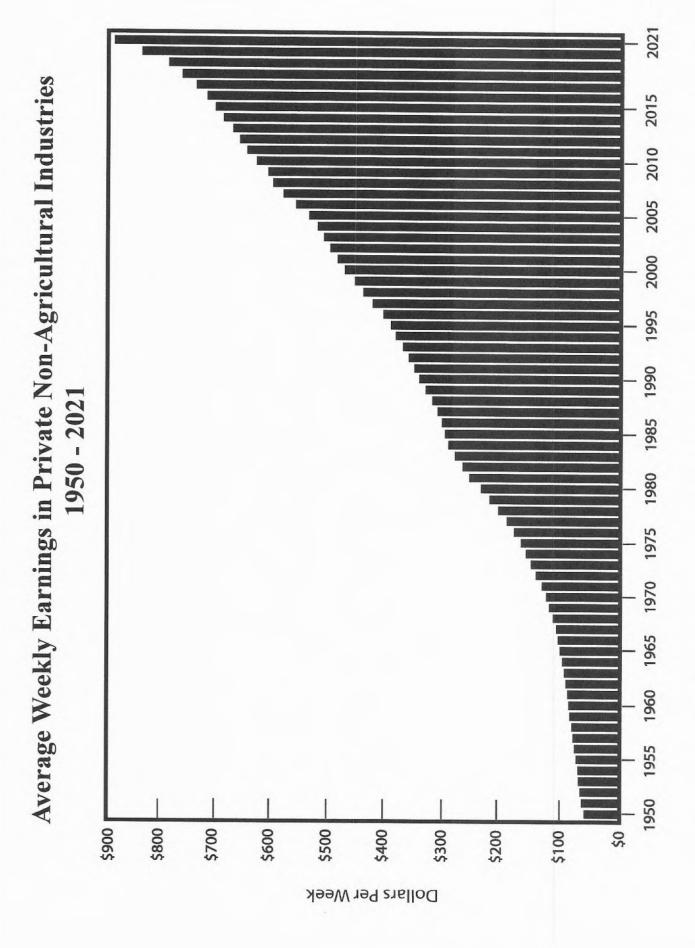
Source: Economic Report of the President, 1991 - 2022; The U.S. Bureau of Labor Statistics

Robert W. Johnson & Associates









## 

#### PERSONAL INJURY - ECONOMIC IMPACT REPORT Re: Anthony Valadez

#### Expected Income

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#### PERSONAL INJURY - ECONOMIC IMPACT REPORT Re: Anthony Valadez

#### **Expected Income**

Year	Present Value
2060	60,157
2061	61,060
2062	61,978
2063	45,924
Total	1,931,573

## 

#### PERSONAL INJURY - ECONOMIC IMPACT REPORT Re: Anthony Valadez

#### Social Security Income

Year	Present
	Value
2065	7,253
2066	27,148
2067	27,434
2068	27,723
2069	28,014
2070	28,309
2071	28,607
2072	28,909
2073	29,213
2074	29,520
2075	29,831
2076	30,145
2077	30,463
2078	22,473
Total	375,042

## 

#### PERSONAL INJURY - ECONOMIC IMPACT REPORT Re: Anthony Valadez

#### Household Services

Year	Present Value
2022 2023 2024 2025 2026 2027 2028 2029 2030 2031 2032 2033 2034 2035 2036 2037 2038 2039 2040 2041 2042 2043 2044 2045 2044 2045 2046 2047 2048 2049 2050 2051 2052 2053 2054	
2055 2056 2057 2058 2059	23,451 23,803 24,161 24,524 24,892

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#### PERSONAL INJURY - ECONOMIC IMPACT REPORT Re: Anthony Valadez

#### Household Services

Year	Present
	Value
2060	25,266
2061	25,645
2062	26,031
2063	29,989
2064	40,230
2065	40,834
2066	41,447
2067	42,070
2068	42,702
2069	43,343
2070	43,994
2071	44,655
2072	45,326
2073	46,007
2074	46,698
2075	47,399
2076	35,121
Total	1,380,642

#### PRESENT VALUE CALCULATION

This report quantifies the economic damages of this case. It does not include non-economic (general) damages.

The lost wages and earning capacity are assumed to increase in the future. The wage growth rates used in this report were determined from post-war (1950 - 2021) U.S. economic data and are illustrated in the attached chart. The economic data for the period of 1950 - 1963 has been adjusted to incorporate post 1963 data set changes. Future lost wages and earning capacity are also assumed to be adjusted to present value based on current interest rates. The interest rates used in this report are current yields on U.S. Treasury Securities, also illustrated in an attached chart.

In cases where the subject's wage growth is assumed to track the national average and he/she has no expected job changes, it is assumed that wages will remain constant after the present year. Wage growth, inflation, and interest rates are all accounted for in the present value process.

Similar to the present value process for lost wages and earning capacity, anticipated future expenses and medical costs are also assumed to increase in the future. The inflation rates used in this report were determined from post-war (1950 - 2021) U.S. economic data and are illustrated in the attached chart. Future expenses and medical costs are also assumed to be adjusted to present value based on current interest rates.

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Hospital & Related Services Price Index, 2021.

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U.S. Government Accountability Office, "Prescription Drugs: Trends in Usual and Customary Prices for Commonly Used Drugs", GAO-11-306R (2011).

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Patton, Robert and Nelson, David, "Estimating Personal Consumption Costs in Wrongful Death Cases", in JOURNAL OF FORENSIC ECONOMICS, 4(2) 1991; and Ruble, Michael, Patton, Robert and Nelson, David, "Patton-Nelson Personal Consumption Tables 2016-17" in JOURNAL OF LEGAL ECONOMICS, 25(1-2) 2019.

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NATIONAL VITAL STATISTICS REPORTS, Volume 69, Number 12, UNITED STATES LIFE TABLES, 2018. National Center for Health Statistics, 2020.

Expectancy Data, THE DOLLAR VALUE OF A DAY, TIME DIARY ANALYSIS: Dollar Valuation. Shawnee Mission Kansas, current year.

United States Department of Labor, Bureau of Labor Statistics, NATIONAL COMPENSATION SURVEY: EMPLOYER COSTS FOR EMPLOYEE COMPENSATION, - December 2021.

Charles Schwab & Co. - U.S. Treasury Zero Coupon Strips, Principal Only, 3/31/2022.

## Exhibit C

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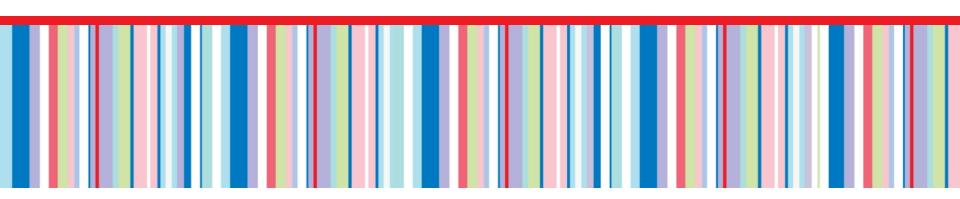
**EXHIBIT C** 

# A Backgrounder on Talc and Talc Based Powders

Lorena Weber Telofski, CMPP

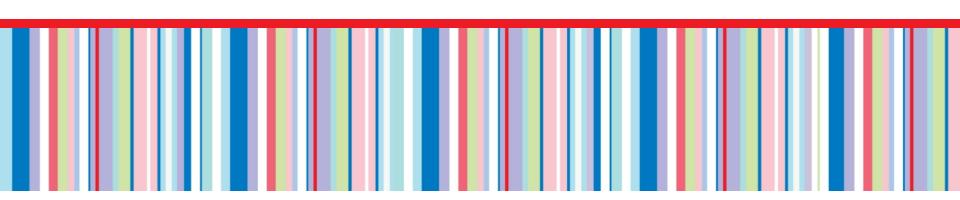
Scientific Engagement Leader

Baby Skincare, North America



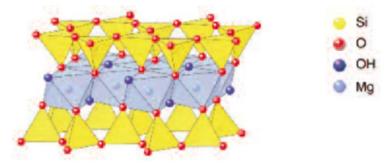


## What is Talc?



## Hydrated Magnesium Silicate - Mg<sub>6</sub> Si<sub>8</sub> O<sub>20</sub> (OH)<sub>4</sub>

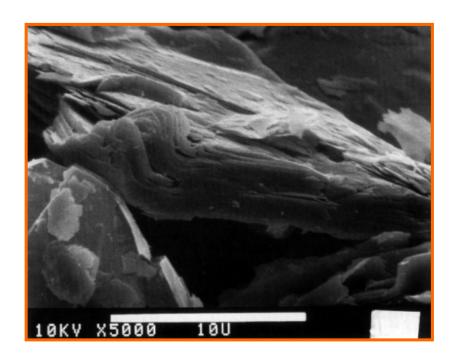
- A naturally occurring mineral; mined from ore deposits
- As used in body powders defined as a powdered hydrous magnesium silicate, which belongs to the family of sheet silicates (e.g., a type of clay)
- It has a flat, plate-like structure, giving it is natural slippery and soft feel when spread. It is the softest known mineral.
- Heat stable
- Inert

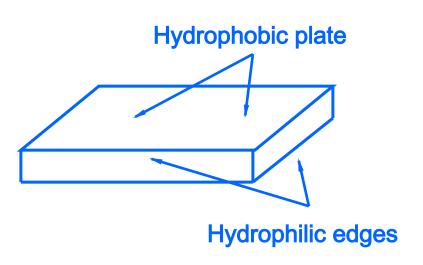


Schematic structure of talc Industrial Minerals Association - Europe (IMA-Europe), 2012

CONSUMER & PERSONAL PRODUCTS WORLDWIDE DIVISION OF JOHNSON & JOHNSON CONSUMER COMPANIES, INC

## Cosmetic Talc





Unique Properties of Talc Make it an Excellent Powder in High Humidity Water Molecules Adsorb On the Surface (hydrophobic behaviour)

Resists "Wetting"



#### Exhibit Abitibit Abit

## End Uses (Grades Vary)

#### Industrial

 Ceramics, coatings, paints, paper, roofing materials, rubber, waste water treatment

## Agricultural

Anti-caking, dispersant for fertilizers

#### Food

 Anti-stick coating (candies, gum); processing of olive oil; flow agent for rice

#### Cosmetic

Absorbent, Opacifying Agent, Skin Protectant, Slip Modifier

#### Pharmaceutical

- Bulking agent, anti-stick agent for medications (e.g., pills)
- Used for pleurodesis (treatment of malignant pleural effusions)



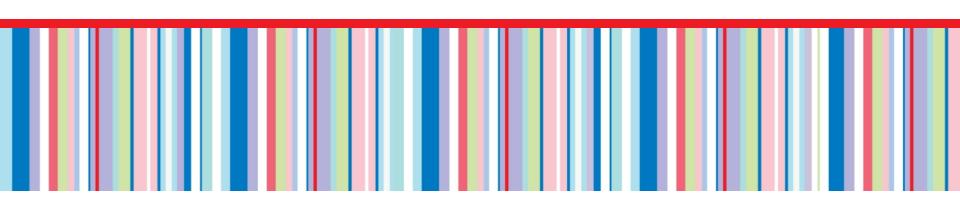
## **Examples of Cosmetic Use**

- Antiperspirants, Deodorants
- Body Powders (Baby, Adult)
- Bath, Shower Products
- Beauty Products
- Creams, Lotions
- Hair Care Products
- Lipsticks
- Shaving Products
- Sun Protection Products



## **Ensuring Safety of Talc Powder**

Microbiology
Mineral Purity



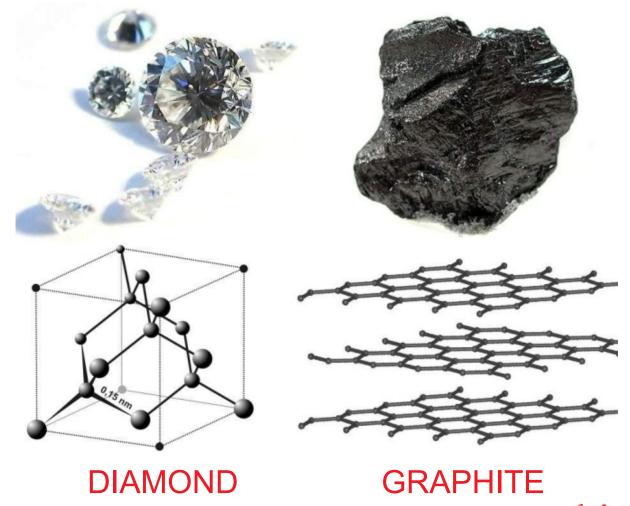


## Important to Maintain Microbial Purity

- 1946 New Zealand
  - Case of Tetanus from microbe Clostridium tetani
- Essential to Ensure Safe Microburden
- Common Processes
  - Heat Treatment
  - Steam Sterilization



## Similar Chemistry Doesn't Mean SAME



#### Case@13302895WBKK DDoc234833 FHeld 00951/0/2122 Elettered 00951/0/2122088369220 DDesc

# Talc and Asbestos Snare Similar Chemical Components But Could Not Be More Different!

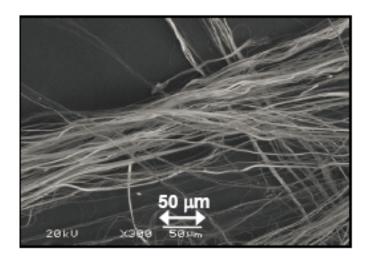
- Differences are often misunderstood
- Each individually formed under different geological conditions
- Mined from separate ore bodies
- Myth that these two ores are co-mined or commonly associated
- Absence of asbestos in talc is routinely confirmed through a battery of tests
  - Talc suppliers utilize sophisticated testing to comply with regulatory and industry-wide requirements and with their own internal SOPs
  - X-ray diffraction, optical and electron microscopy

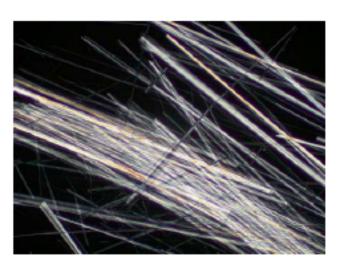
Asbestos is HIGHLY Regulated

Johnson a Johnson Consumer Companies inc

## Physical Structure (Wordholdon) of Ashes **Vastly Different**

- Asbestos is fiber-like (needle-like; clusters or individuals)
- High tensile strength, high durability
- The needle-like structure is the property that gives it the ability to imbed in pulmonary tissue
- Carcinogenic properties due to morphological structure (e.g., fibrous characteristics)





Images Sourced From - What is Asbestos? The challenges of defining and characterizing asbestos in a changing regulatory world. Session 2 – Analysis for Asbestos by X-ray Diffraction and Polarized Light Microscopy: Strengths and Limitations. RJ Lee Group, Inc. 2009



## Grades of Talc – Two Important Groupings

- Industrial
  - Mixture of talc with other similar minerals / rocks found in association
  - Absence of asbestos / asbestiform fibers
- Cosmetic / Pharmaceutical / Food Grades
  - Pure grade of 99+% hydrated magnesium silicate
  - Absence of asbestos / asbestiform fibers
  - Limits on other mineral constituents (e.g., quartz)
  - Slight differences food vs. USP

Cosmetic Grade Talc is Produced to United States Pharmacopeia (USP) Standards



## To Sum - Talc Safety

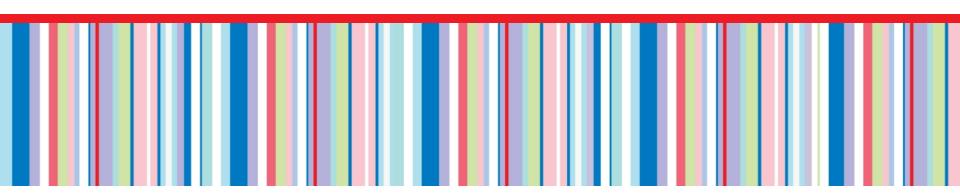
- Publications on safety and non-toxic nature of talc go back to 1944
- Cosmetic grade talc documented evidence of "absence of asbestos" since the 1970s
  - Asbestos is highly regulated

KEY TAKEAWAY
Talc and Asbestos are VERY DIFFERENT



## Talc – Let's Discuss Its Safe Use

In Use Application
Lung Effects
Ovarian Effects





# In Use Application Avoiding Ingestion, Choking, Blocking Nose / Mouth

- Can occur through misuse infant or sibling inverts container over face; good labeling required
- EU Labeling Requirement for Children < 3 Years</li>
  - Warn to keep powder away from children's nose and mouth
- Canada Labeling Requirement for Infants / Children
  - Cautionary Statements "Keep out of reach of children; "Keep powder away from child's face to avoid inhalation which can cause breathing problems."



# JOHNSONS BADY POWER DESCRIPTION OF THE SERVED PROBLEM REPAIR PAGE 197 of 225

## "Shaker" Package

#### BABY POWDER (TALC) SAFETY ICONS



**WARNING:** Keep powder away from child's face to avoid inhalation, which can cause breathing problems. Avoid contact with the eyes. For external use only.



#### To Use:

- 1. Shake powder directly into your hand, away from the face, before smoothing onto the skin.
- 2. Close tightly after use, store in a cool, dry place.

- Provides important warning statement to avoid misuse / promote safe use
- Provides directions for use to further promote safe use / to avoid misuse
- Uses icons (pictures) to enhance understanding



## Lung Effects

- Occupational cohort studies of talc inhalation did not show an increased risk of lung cancer\*
  - 5 published studies
    - 4 of the 5 Studies no case of mesothelioma\*\* (mesothelioma not studied in the 5<sup>th</sup> study)
    - In 2 of these studies that had dose-response measurements, no excess risk was found in the highest exposed group
- Results of studies involving miners and millers support lack of association between talc and any cancer
  - Miners exposed to high levels of talc sometimes developed fibrosis (which can occur with any dust); there was no excess of pulmonary tumors
- \* Also no increased risk of ovarian cancer
- \*\* Mesothelioma known to be exclusively caused by asbestos



## Lung Effects

- Cohort studies of very high dose pleurodesis\* (~8 grams) to treat pneumothorax patients showed no subsequent risk of cancer (talc\* applied directly to the lung pleura)
  - Talc pleurodesis fist reported in 1935<sup>1</sup>
  - Performed routinely for preventing recurrent pneumothorax and effusions with a success rate of over 90%
  - Talc is the preferred agent
- Treatment of pneumothorax patients, talc applied directly to the lung pleura
- \*\* Sterile talc

# 99 Patients Were Followed For Over 20 Years No Increase of Cancer<sup>2</sup>

- 1. Bethune N. Pleural poudrage: a new technique for the deliberate production of pleural adhesions as a preliminary to lobectomy. J Thorac Surg. 1935; 4:251-161.
- 2. Lange P, Mortensen J, Groth S. Lung function 22-35 years after treatment of idiopathic spontaneous pneumothorax with talc poudrage or simple drainage. Thorax 1988; 43(7) 559-561.



## **Lung Effects**

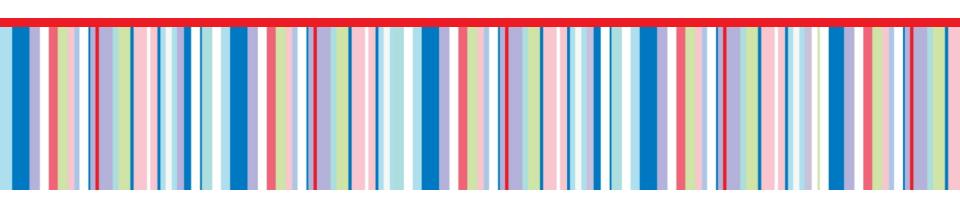
- In over 100 years of use, no case of lung damage from normal use
- Normal infant exposure: 0.007 mg/hr/m3 breathed\*1
  - Lifetime Rat Study No Effect at 6000x the infant exposure level<sup>2</sup>
- Natural lung defense mechanisms that normally deal with dust in the air can deal with exposures above normal infant exposure

- 1. Hildick-Smith GY. The biology of talc. *British Journal of Industrial Medicine*. 1976;33(217):229.
- 2. Wagner JC, Berry G, Cooke TJ, Hill RJ, Pooley FD, Skidmore JW. Animal experiments with talc. Inhaled Part. 1975; 4 Pt2:647-654



<sup>\*</sup> Based on 5 applications / day

## **Ovarian Effects**



## **Historical Context**

- Talc first came to attention of scientists because of compositional similarities to asbestos
  - Asbestos is a known and potent carcinogen
  - Talc has not been shown to have carcinogenic effects of asbestos
- Cramer Hypothesis
  - 1982 Epidemiologic association between ovarian cancer and cosmetic talc first published by Prof. Daniel Cramer and his research group at Harvard University<sup>1</sup>
  - 1992 Follow-up case-control study<sup>2</sup> (OR 1.5; CI 1.1-2.7)
  - Cramer's hypothesis for linking talc and ovarian cancer
    - Some ovarian tumors histologically resemble mesotheliomas (a tumor only caused by asbestos exposure)
    - Talc and asbestos share similar chemical components
- 1 Cramer DW, Welch WR, Scully RE, Wojciechowski CA (1982) Ovarian cancer and talc. *Cancer* 50:372-376.
- 2 Harlow BL, Cramer DW, Bell DA, Welch WR (1992) Perineal exposure to talc and ovarian cancer risk. *Obstet Gynecol* 80: 19-26



- Reported Adult Talc Perineal Dusting 21 studies\*1,2
  - Odds Ratio (OR) 1.3
  - No author reported a causal role for talc
  - Dose Response 10 studies\*
    - Most show no dose response with increasing usage
      - Only two showed an increasing trend in the OR with higher dose
    - Some show inverse response
      - Lowest exposure associated with highest risk
      - Highest exposure associated with lowest risk
  - The one epidemiological study that permitted women to acknowledge that they did not know the ingredients in their powder showed no association with ovarian cancer risk

<sup>2.</sup> Rosenblatt KA, Weiss NS, Cushing-Haugen KL, Wicklund KG, Rossing MA. Genital powder exposure and the risk of epithelial ovarian cancer. (2011) Cancer Causes Control 22:737-742. IR 1,27, CI 1.02-2.37).



<sup>\*</sup> Meta Analysis

<sup>1.</sup>Langseth H, Hankinson SE, Siemiatrycki J. Welderpass E Perineal talc exposure and subsequent epithelial ovarian cancer. (2008) J Epidemiol Community Health 62:358-360. (Meta analysis performed pooling and reviewing data of 20 case-control studies.) (OR 1.35, CI 1.26-1.46)

- Only One Prospective Cohort Study Gertig, et al, 2000<sup>1</sup>
  - Nurse's Health Study (established 1976)
  - Cohort of 121,700 female RNs were questioned about behaviors and followed over a 14 year time period (1982-1996).
  - 307 nurses developed OC
  - Findings
    - Perineal talc use not associated with risk for ovarian cancer (RR 1.09, CI 0.86-1.37)
    - 160 (of 307) serous type cancers;
      - 84 did not use talc, 76 did use talc
      - Adjusted RR 1.33; CI 0.98 1.82.
      - Authors commented that perineal talc use may modestly increase the risk of serous ovarian cancer
    - No dose response shown
- Conclusion Talc is not a causal factor for ovarian cancer
  - IARC (2006) similarly concluded
- 1. Gertig DM, Hunter DJ, Cramer DW, Colditz GA, Speizer FE, Willett WC, Hankinson SE. Prospective study of talc use and ovarian cancer, *J Natl Cancer Institute* (2000) 92(3):249-252.



- Sanitary Napkin with Talc Exposure -12 Studies\*
  - No significant increased risk of ovarian cancer
- Talc Dusted Diaphragm 9 Studies\*
  - No significant increased risk of ovarian cancer
- Talc Dusted Condom 5 Studies\*
  - No significant increased risk of ovarian cancer
  - Time trend studies of talc-dusted condom use do not show a correlation with ovarian cancer incidence rates
- Male Genital Talc Use 2 Studies\*
  - No significant increased risk of ovarian cancer



<sup>\*</sup> Meta Analysis

- Occupational cohort studies of talc inhalation
  - No significant increased risk of lung and ovarian cancer
- Cohort studies of talc pleurodesis (~ 8 grams)
  - No statistically increased risk of cancer
- Experimental animal studies have not demonstrated that talc induces cancer
- Studies of particle migration in the female reproductive tract are inconclusive
- Theory of talc induced inflammation / oxidative stress is not supported
  - Numerous studies show no positive association between gynecologic conditions and ovarian cancer



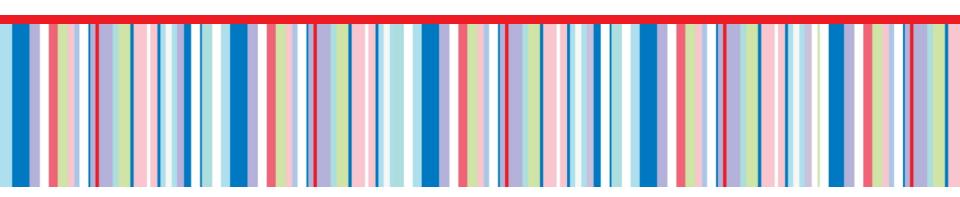
# Risk Factors for Ovarian Cancer (Epithelial)

#### **Evidence of Genuine Associations**

Factors Known to Contribute	Factors Known to Protect
Family History – maternal or paternal	
Personal History – breast cancer	
Age – post menopause	Age - rare ≤ 40 years of age
Obesity - Body Mass Index (BMI) ≥ 30	Breast Feeding
Reproductive History - nulliparity (never having given birth)	Reproductive History – risk drops with each full term pregnancy
Dietary Intake - High Fat Diet, Milk	Dietary Intake – Low Fat Diet
Fertility Drugs – some studies have found that using specific fertility drug for longer than one year may increase risk	Birth Control – number of years on oral contraceptives (the pill). Recent study reports lower risk with DMPA)
Estrogen Replacement Therapy after menopause – recent studies suggest an increased risk	Gynecologic Surgery – tubal ligation, hysterectomy (without ovary removal)

Note - Factors not in order of risk level. Source - American Cancer Society 2013 - <u>www.cancer.org</u> GONSUMER & PERSONAL PRODUCTS WORLDWIDE

# Agency Positions On Association Of Talc and Ovarian Cancer



## National Toxicology Program (NTP)

- US federal agency under Dept of Health and Human Services
- Evaluates agents for their carcinogenicity
- Asbestos listed
- Talc is Not listed

Decision NOT to Include Cosmetic Talc in its Report on Carcinogens (RoC)



## IARC Talc Monograph Summary Conclusions - 2006

#### Cancer in Humans

 There is inadequate evidence in humans for the carcinogenicity of inhaled talc not containing asbestos or asbestiform fibres. There is limited evidence in humans for the carcinogenicity of perineal use of talc based body powder.

#### Cancer in Experimental Animals

 There is *limited* evidence in experimental animals for the carcinogenicity of talc not containing asbestos or asbestiform fibres.

#### Overall evaluation

- Perineal use of talc-based body powder is possibly carcinogenic to humans (Group 2B).
- Inhaled talc not containing asbestos or asbestiform fibres is not classifiable as to its carcinogenicity (Group 3).

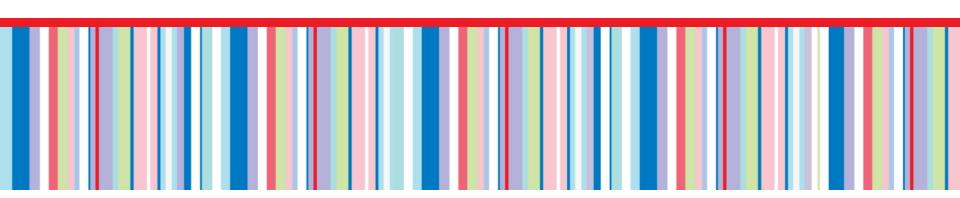
*IARC Monographs on the Evaluation of Carcinogenic Risks to Humans,* VOLUME 93 - Carbon Black, Titanium Dioxide, and Talc., This publication represents the views and expert opinions of an IARC Working Group on the Evaluation of Carcinogenic Risks to Humans, which met in Lyon,7–14 February 2006. Monograph 2010.



# Cosmetic Ingredient Review (CIR) Conclusions (2013)

- Talc for use in cosmetics is safe in the present practices of use and concentrations
- Talc should not be applied to the skin when the epidermal barrier is missing or significantly disrupted
- Summary comments on Epidemiological Data
  - Cited a lack of consistent statistically significant positive associations across studies
  - Lack of positive dose response or a lack of cause and effect
  - Statistical risks were weak and uniformly small

#### To Sum



#### TO SUM

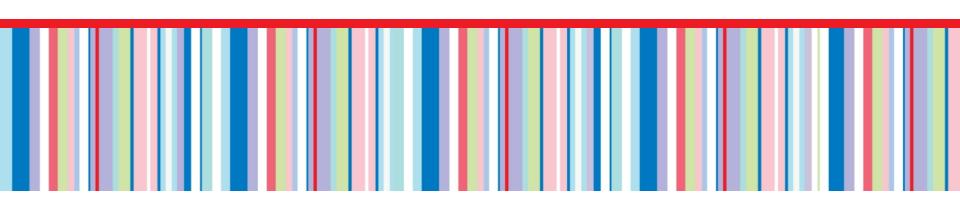
- Hill Criteria Insufficient Evidence
- No reports that talc induces any of the six hallmarks of cancer<sup>1,2</sup>
- Overall scientific bodies / agencies find talc safe for intended use in cosmetic applications, the 2006 IARC classification of Group 2B, notwithstanding

Weight of the Evidence - Cosmetic Talc Safe For Intended Use

- 1. Hanahan D, Weinberg RA. The Hallmarks of Cancer. (2000) Cell 100:57-70
- 2. Hanahan D, Weinberg RA. Hallmarks of Cancer: The Next Generation (2011) Cell 144:646-674



#### **THANK YOU!**





# Exhibit D

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4	DEPARTMENT 19
5	VIA ZOOM CONFERENCE
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7	CHRISTINA G. PRUDENCIO,
8	Plaintiff,
9	vs. No. RG20061303
10	JOHNSON & JOHNSON, et
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2 CONFERENCE:	2 INDEX OF EXAMINATIONS
3	3 CHRONOLOGICAL
4 For the Plaintiff:	4
5 JOSEPH SATTERLEY IAN RIVAMONTE	5 ALICE BLOUNT, Ph.D. (for the Plaintiff via
6 Kazan, McClain, Satterley & Greenwood	videotape)
55 Harrison Street, Suite 400	6 Examination By Mr. Lanier 3088
7 Oakland, California 94607	Examination By Mr. Lanier 3093
(510) 302-1000	7 Examination By Mr. Dubin 3117
8 Jsatterley@kazanlaw.com	8 ALICE BLOUNT, Ph.D. (for the Plaintiff restarted
Irivamonte@kazanlaw.com	via videotape)
9	9 Examination By Mr. Dubin 3129
10 For the Defendants Johnson & Johnson & Johnson & Johnson	10 ALICE BLOUNT, Ph.D. (for the Plaintiff restarted
Consumer Companies, Inc., Johnson & Johnson Inc., sii 11 Johnson & Johnson Cons Companies:	via videotape)
12 MORTON D. DUBIN	11 Examination By Mr. Lanier 3132
SHAILA R. DIWAN	Examination By Mr. Dubin 3154
13 KEVIN HYNES	12 Examination By Mr. Lanier 3158
King & Spalding LLP	Examination By Mr. Dubin 3158
14 1185 6th Ave Of The Americas	13
New York, NY 10036	14 DAVID STEVEN EGILMAN, M.D., MPH (for the
15 (212) 556-2100	Plaintiff)
Sdiwan@kslaw.com	15 Direct Examination By Mr. Satterley 3169
16 Mdubin@kslaw.com	16
Khynes@kslaw.com	17
18	18
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2 SESSIONS	2 INDEX OF EXAMINATIONS
_	3 ALPHA
2 SESSIONS 3 DATE PAGE	3 ALPHA 4 WITNESSES: PAGE
2 SESSIONS 3 DATE PAGE 4 Thursday, June 17, 2021	3 ALPHA 4 WITNESSES: PAGE 5
2 SESSIONS 3 DATE PAGE 4 Thursday, June 17, 2021 5 Morning and Afternoon Session 3081	3 ALPHA 4 WITNESSES: PAGE 5 ALICE BLOUNT, Ph.D. (for the Plaintiff restarted 3129
2 SESSIONS 3 DATE PAGE 4 Thursday, June 17, 2021	3 ALPHA 4 WITNESSES: PAGE 5 ALICE BLOUNT, Ph.D. (for the Plaintiff restarted 3129 6 via videotape)
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1 INDEX - VOLUME 22 - (Pages 3074 - 3255)	1000
2 INDEX OF EXHIBITS 3	2 PROCEEDINGS
4 PLAINTIFF'S ID EV WD	3000
5 ID2 Demonstrative - Dr. 3208	4 Thursday, June 17, 2021 - 9:03 a.m.
Egilman 6	5 (Morning and Afternoon Session)
ID10 Demonstrative - Dr. 3210	,
7 Egilman	6 (The following proceedings were held in the
8 ID11 Demonstrative - Dr. 3215 Egilman	7 virtual breakout room with counsel only outside the
9	8 presence of the jury:)
ID3 Demonstrative - Dr. 3217	9 THE COURT: Let's go on the record.
10 Egilman 11 ID13 Demonstrative - Dr. 3218	MR. SATTERLEY: So we were talking off the 09:03:11
Egilman	11 record about a couple of different things.
12 ID5 Demonstrative - Dr. 3221	First, I renewed my motion with regards to
13 Egilman S221	13 Juror Number 3 being absent through part of my opening
14 ID14 Demonstrative - Dr. 3227	14 statement. Your Honor said we'll defer that till
Egilman 15	15 later, and I understand that. I understand Your Honor 09:03:24
ID15 Demonstrative - Dr. 3229	16 wants to deal with that later.
16 Egilman	The second issue is Dr. Blount. We're about to
17 ID8 Demonstrative - Dr. 3232 Egilman	18 play the deposition, and defendant's requesting
18	19 specific instructions, and they're saying that they
ID9 Demonstrative - Dr. 3234  19 Egilman	20 want an instruction about something that occurred after 09:03:38
20 7707 Christian Koffmann 3165	21 the deposition.
Videotape	22 And we object to their attempts to get a court
21 22	23 instruction about they were denied samples because
23	24 they've never moved to compel in this court or any
24 25	25 other Alameda County court to obtain anything, they've 09:03:54
Page 3079	Page 3081
1 INDEX - VOLUME 22 - (Pages 3074 - 3255)	1 never issued any subpoenas for anything, and for Your
2 INDEX OF EXHIBITS	2 Honor to tell them that I don't know some
3 DEFENDANT'S ID EV WD	3 instruction about they were denied access to certain
4 (No Exhibits Marked.)	4 things, when they never sought court order or relief,
5	5 never sought that discovery 09:04:11
6	·
7	6 This deposition is three years old, and they've
8	7 not in Leavitt, they didn't move to compel anything.
O	8 In Schmitz, they didn't move to compel anything.
9	9 Blount, they didn't move to compel anything. Reyes,
10	10 they didn't move to compel anything. In this case, 09:04:26
11	11 they didn't move to compel. They didn't issue any
12	12 subpoenas.
13	And now, for Your Honor to give instructions
14	14 that they were denied access to some evidence would be
15	15 incredibly prejudicial. 09:04:36
16	16 MR. DUBIN: Your Honor, I don't understand why
17	17 we are re-arguing the motion, you know, that Your Honor
18	18 has already decided.
19	19 Again, recall, for the data, we did request the
20	20 data in that action that she was in, and then they 09:04:47
21	21 provided she had no data. Right? And then we asked
22	22 for another deposition to memorize that and to and,
23	23 instead, the Court handled it through an instruction.
24	24 And so that was what Your Honor ruled on last
25	25 time. If we are going to go back and re-rule it, then 09:05:05
Page 3080	Page 3082
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1 JUROR NO. 13: Yeah. Thank you.	1 I've written your name down on this sheet, and
2 THE COURT: All right. We are ready to go.	2 you can see it down at the end, 'Dr. Alice Blount.'
3 Mr. Satterley, I understand you will be showing	3 Can you make sure I'm pronouncing it right?
4 the video of a deposition. Is that right?	4 How do you say 'Blount'?
5 MR. SATTERLEY: Yes, Your Honor. Dr. Egilman 09:11:33	5 A. I say 'Blount,' the same as you. 09:13:56
6 will be back later this morning. We have an	6 Q. Dr. Blount, I want to ask you two important
7 hour-and-five-minute video deposition of Dr. Alice	7 questions, and then we are going to dig into some
8 Blount.	8 information behind your answers. Okay?
9 THE COURT: All right. So let me just read the	9 The first question is this: Have you tested
10 instruction about what a deposition is to the jury. 09:11:43	10 Johnson & Johnson Baby Powder for asbestos? 09:14:08
So, ladies and gentlemen, you're about to see	11 A. Yes.
12 some deposition testimony. A deposition is the	12 Q. One follow-up question.
13 testimony of a person taken before trial. At a	13 Does Johnson & Johnson Baby Powder or did it
14 deposition, the person is sworn to tell the truth and	14 when you tested it have asbestos?
15 is questioned by the attorneys. You must consider the 09:12:02	15 A. Yes. 09:14:26
16 deposition testimony that was presented to you in the	16 Q. All right. So let's start out with who you
17 same way as you consider testimony given in court.	17 are.
18 So, Mr. Satterley, go ahead.	Now, I've had the benefit and we'll get into
19 MR. SATTERLEY: Is our tech technical	19 this in a little more detail later. I have had the
20 person has he been admitted into the 09:12:26	20 benefit of meeting with you, I think, on about three 09:14:44
21 Yeah, there we go, video witness.	21 different times three or four; is that right?
22 THE TECHNICIAN: Yes, I am here.	22 A. That's about right.
23 MR. SATTERLEY: Kevin, can you play the can	23 Q. I know that on two or three of those times, we
24 you screen share and play the deposition of Dr. Alice	24 talked for about 20 or 30 minutes about this
25 Blount. 09:12:40	25 information over a cup of coffee 09:15:02
Page 3087	Page 3089
1 No sound.	1 A. Yes.
2 THE COURT: All right. Can everybody see if	2 Q at the bakery.
3 you can't see the picture here, raise your hand,	3 A. Yes.
4 please.	4 Q. And then last night we had dinner with your
5 MR. SATTERLEY: Kevin 09:13:03	5 husband, Jack, at a delightful place. So I don't 09:15:11
6 THE COURT: All right. Everyone can see it,	6 really think we talked about this at all.
7 and now we need some sound.	7 A. No.
8 MR. SATTERLEY: Kevin is muted, so he needs to	8 Q. You brought with you some papers. And among
9 unmute himself so the sound can be	9 those papers was a resumé that you did when you were
10 THE COURT: There we go. 09:13:14	10 trying to or when you were getting ready for a 09:15:22
11 MR. SATTERLEY: And then let's start all over	11 position or something at Rutgers, I think; is that
12 again.	12 right?
13 ALICE BLOUNT, Ph.D.	13 A. Yes, Rutgers in Newark. Newark branch of
14 (For the Plaintiff via videotape)	14 Rutgers.
15 was played and reported to the jury as follows: 09:13:19	15 Q. We'll get to you and Rutgers in a minute. 09:15:38
16 EXAMINATION BY MR. LANIER:	By the way, just for grins, tell the jury where
17 Q. "Good morning, Dr. Blount. Thank you for	17 you live now, and why we're having to do this by
18 taking time this morning. I'm going to ask you some	18 deposition instead of you just driving from Carbondale.
19 questions"	19 Where are we today?
20 MR. SATTERLEY: Can you turn the volume up. 09:13:31	-
21 BY MR. LANIER:	21 Q. Rutland, Vermont. And I know you still do some
22 Q "and then the other lawyers will ask you	22 consulting work, but basically
23 some questions as well. I'll probably come back and	23 A. We came up here because I had a job up here.
24 ask you a few more, and we'll try and move through this	24 Q. All right. Very good. And then your husband's
25 with all speed. Okay? 09:13:43	25 retired, I think. 09:16:07
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1 program from him, and that's the whole story.	1 A. I think it's BH2, yeah, with a lot of
2 Q. You and I were talking about this and doing the	2 accessories on it.
3 math. You all have been married this year makes	3 Q. Yeah. I started to say, this doesn't look like
4 50 years y'all have been married. That's incredible.	4 what we had in high school.
5 All right. Your experience at the time of this 09:28:22	5 A. No. 09:31:01
6 resumé back then, you were a curator of earth science	6 Q. Is this what you used to take this picture that
7 at the Newark Museum, and a research associate	7 we've got as Exhibit 2?
8 professor and member of the graduate faculty for the	8 A. Maybe you better show the picture with the gray
9 Department of Geological Sciences at Rutgers since	9 background.
10 1972; is that right? 09:28:39	10 Q. Oh, the gray background picture. All right. 09:31:11
11 A. That's right. That's right.	11 A. Yeah, because it's easier to explain.
12 Q. And you would actually teach courses in optical	12 Q. Yes, yes, yes.
13 mineralogy on a graduate level at Rutgers.	13 We'll mark the gray background picture as
14 A. Right.	14 Exhibit Number 5. So let's start with that one.
15 Q. Can you tell us what optical mineralogy is? 09:28:54	15 A. Is that the right is that the right I 09:31:27
16 A. Well, optical mineralogy is what I would be	16 have an arrow there. Do you have the can you see
17 doing on these samples that I am looking at to see if	17 the arrow at the side?
18 there's asbestos. You take a glass slide, and you put	18 Q. Yes. Here's the arrow. Does that mean
19 your sample on the glass slide, and then you use a	19 A. Yes, that's the right direction.
20 microscope so that you can really see what's there. 09:29:09	Q. Okay. Let me expand it so we've got a better 09:31:41
21 And you can do some tests on them when they're on the	21 view. All right?
22 slide, and that makes it so you can actually identify	22 A. And then you got the red one to go with it,
23 exactly what it is.	23 too.
24 Q. You brought some pictures, and we'll go into	24 Q. I'm sorry?
25 more detail later. But two of the pictures that we'll 09:29:24 Page 3099	25 A. You've got a red one that goes with that, too. 09:31:51 Page 3101
1 label let's get these labels caught up.	1 Q. Okay. That would be hold on. Hold on.
2 We're going to label your resumé as Exhibit	2 Hold on.
3 Number 1 so the jury can see it. We'll put a Number 1	3 A. Somewhere.
4 on it. And then we're going to label these pictures as	4 There.
5 Exhibits Number 2 and 3 so that we've got them as well? 09:29:40	5 Q. It would be this one. 09:31:57
6 And I'll put these up so the jury can see them and the	6 A. And the arrow should be going yeah. That's
7 lawyers can see them.	7 good.
8 But I've put Exhibit 2 there's the 2 number.	8 Q. Okay. So here, I'll put them both up here
9 I've put Exhibit 2 up for the jury to see.	9 together.
10 Is this something you took with an optical 09:30:06	A. So I first I have on the right, I have a 09:32:07
11 microscope?	11 picture through the microscope without any filters or
12 A. You have a picture of the microscope somewhere,	12 anything, but to tell which direction it what we
13 I think.	13 call the fast direction or the slow direction, you have
14 Q. Yes. You gave me a picture of the microscope.	14 to put the filter in. So that's what I've done on the
15 That's a good point. I should use that. 09:30:16	15 left, I've put the filter in, and it makes the 09:32:21
We'll mark it as Exhibit Number 4.	16 background look red, but it gives a yellow tint to that
What is what is Exhibit Number 4? What is	17 fiber there.
18 this picture we're looking at?	18 Q. All right. So this that my finger's drawing
19 A. That's my pictographic microscope that I have	19 here, I'll put a circle around it, this is what you're
20 at home. It's my microscope, yeah. 09:30:41	20 calling a fiber; is that right? 09:32:39
21 Q. This is your microscope you have at home?	21 A. I call it yes, I call that a fiber.
22 A. Yeah.	Q. Okay. And so that's on Exhibit Number 5.
23 Q. Olympus, looks Luke, BH2?	23 A. Uh-huh.
24 A. Yeah.	Q. On Exhibit Number 6, it looks like the same
25 Q. Or EH2? 09:30:52	25 type thing, but it's all red on the background. 09:32:51
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1 A. Yes.	1 A. Yes.
2 Q. Is this the one where you	2 Q. I can't spell mineralogy. M-i min
3 A. You put the filter in sort of the middle part	3 A. Mineralogy?
4 of the microscope, and it's the color if it's	4 Q. Mineralogy. Mineralogy. It's something like
5 yellow, then we know we know it's an asbestos fiber. 09:33:01	5 that. I can do 'geology' 09:35:39
6 If it was blue, then it wouldn't be. So that's why we	6 A. Okay.
7 have these colors here.	7 Q geology.
8 Q. Oh, so that's what tells you that that	8 Okay. And then you went to Rutgers, where you
9 sphere-looking thing is asbestos?	9 did some teaching and research, and then you've also
10 A. Uh-huh. 09:33:16	10 done consulting for companies, all to not all, but 09:36:02
11 Q. Okay.	11 including to identify asbestos; is this fair?
12 A. That's why we put the color in there.	12 A. That's fair.
13 Q. By the way, where did you get this asbestos	13 Q. All right. Now, I want to change to a new
14 from that's in these pictures?	14 subject here. So with that being it, you've got your
15 A. From Johnson & Johnson Baby Powder. 09:33:26	15 microscope. 09:36:27
16 Q. All right. Now, you actually taught the	16 Where did you get the asbestos from that you've
17 graduate students how to use these microscopes and do	17 put that we've seen here in Exhibit 5 and 6? You
18 this work?	18 said you got it from the Johnson & Johnson Baby Powder.
19 A. Yes, we did. Yes, I taught that.	19 But where did the baby powder come from?
20 Q. And that's in addition to supervising graduate 09:33:42	20 A. Where the baby powder I bought it off the 09:36:46
21 thesis research and teaching undergraduate courses as	21 shelf. I think in New Jersey. But I'm not sure.
22 well?	22 Q. So you just bought it off the shelf?
23 A. Yes.	23 A. Yeah.
24 Q. And did you also consult with several major	24 Q. Very good. You've also got these two pictures
	25 that I've marked as Exhibit 2 and 3. And Exhibit 2, it 09:37:06
25 industrial minerals companies doing this very kind of 09:33:55 Page 3103	Page 310
1 work?	1 looks like the the is this sphere-looking thing
2 A. Yes. Yes.	2 still the fiber?
3 Q. 'Identifying and counting asbestos-type	3 A. Yes.
4 materials in industrial mineral products.' Is that	4 Q. Okay. In one picture, it's yellow. And in the
5 you? 09:34:08	5 other picture, it's blue, and it's going the opposite 09:37:23
6 A. Yes. That's me.	6 direction. How is that? Can you explain that to me?
7 Q. All right. Well, we've got a list here of your	7 A. Well, it's blue it's blue because it's
8 publications at the time, your references. We'll set	8 oriented in the opposite direction. It will change
9 that aside for a moment, though. I did get two of your	9 color from yellow to blue if you rotate it. So we
10 publications from you. 09:34:24	10 rotated it. 09:37:41
11 I got the 'Amphibole content of cosmetic and	11 Q. Ah, so that's just you rotating the slide
12 pharmaceutical talcs' you published in 1991; is that	12 around?
13 correct?	13 A. Uh-huh.
14 A. Yeah. Looks like it.	14 Q. And that changes the color?
15 Q. And I made you sign it. I have an autographed 09:34:40	15 A. Yeah. 09:37:49
16 copy, didn't I?	16 Q. Why is that?
17 A. That's right, you did.	17 A. Because the light the light coming through
	18 the sample is polarized, and so it's it has a
19 that I had kind of an original set up, and I got you to	19 different value as you as you move it.
20 sign that one as well, didn't I? 09:34:56	20 Q. When I was asking you about this over coffee, 09:38:03
21 A. Yes, you did.	21 you showed me this OSHA paper that this OSHA
22 Q. All right. Well, I'd like to make sure that	22 polarized light microscopy of asbestos.
23 so on your background, we've got your work at Rutgers	23 A. Uh-huh.
24 where you've got a Ph.D. in mineralogy and geology; is	Q. And we'll mark this as Exhibit Number 7 so that
25 that right? 09:35:15 Page 3104	25 everybody's got an ability to use it, and the jury gets 09:38:31 Page 310

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1 to see it, I hope.	1 A. Okay.
Now, in that, you pointed me to this chart.	2 So you see here? This goes this way. These
3 A. Uh-huh.	3 I have them marked this way so you can see. And you
4 Q. And this chart says	4 see that this is yellow now.
5 A. Uh-huh. But you need to look at this set with 09:38:43	5 Q. Uh-huh. Let's see. I see. 09:40:55
6 this chart (indicating).	6 A. But they're separate. They're not this way,
7 Q. Oh, I need to look	7 this way. They're separate views. But you can see
8 A. Yeah, with the polarized, yeah.	8 here now it's yellow, which means that
9 Q. With these two or with these two? Whoops.	9 Q. Oh, so that's your flipped view.
10 We've got to do some zoom work here. 09:38:59	10 So Exhibit Number 6 with Number 5, and if we 09:41:10
Oh, I see. I've mixed this up.	11 put Exhibit Number 6 up here, it's going to be right
12 A. You mixed it up.	12 here. I've outlined it in red, but that's hard to see.
13 Q. I need to do it this way. All right. So I'm	13 Let me do black.
14 going to put Exhibit 3, the blue one, on the left and	14 A. Uh-huh, yeah. That's it.
15 Exhibit 2, the yellow one, on the right. 09:39:15	15 Q. All right. And then I'm going to kind of fold 09:41:26
Now, let's do that and have the jury think of	16 it up just to give the jury a chance to see. Right
17 that while I show this	17 next to the chart, that yellow that we're looking at is
18 A. Let me think of that, too. I really did it for	18 the asbestos?
19 the other set that you have.	19 A. Uh-huh.
20 Q. Oh, for the other set? 09:39:32	20 Q. Okay. And you're nodding your head and saying 09:41:37
21 A. Uh-huh.	21 'uh-huh,' but she's going to type this up as well, and
Q. Okay. Well, let me do this. Let me read it	22 'uh-huhs,' even with the great Cary Campbell, can
23 first.	23 sometimes read like 'huh-uhs.' So I need to make sure
24 A. Uh-huh.	24 I've got a 'yes' or a 'no' out loud, if you don't mind.
Q. And then we'll put the setup here. 09:39:37	25 A. Okay. Yes. 09:41:54
Page 3107	Page 3109
1 A. Uh-huh.	1 Q. All right. So that is the yellow like that
2 Q. 'Birefringent fibers will change color as the	2 is the asbestos; is that right?
3 microscope stage is rotated.'	3 A. That shows us, yes, that because of the
4 A. Uh-huh.	4 light goes through at different rates going this way or
5 Q. 'Asbestos fibers, except crocidolite' 09:39:50	5 this way, so that makes a difference. When you put 09:42:07
6 That's one kind of asbestos; right?	6 this filter in, you can tell the difference between the
7 A. Uh-huh. Uh-huh.	7 fast ray and the slow ray.
8 Q 'will show colors as shown here except under	8 Q. Super. Super.
9 the condition of crossed polars and a first-order red	9 Now, you wrote up papers. And I know in your
10 compensator.' 09:40:05	10 1991 paper, you actually talked about the fact that 09:42:22
So pointed this way is blue. That way is	11 there was asbestos in the baby powder. It looks to me
12 yellow. I see in Exhibit	12 like you and the jury will have a chance to read
13 A. Wait a minute.	13 this in more detail and see that Sample I, talc
14 Q 3 blue and yellow. Is that right, or do I	14 Sample I, is actually Johnson & Johnson Baby Powder.
15 have that wrong? 09:40:16	15 And nobody is fussing that. The company's got 09:42:55
16 A. Can I see the no. Can I see the	16 those records and and everything else. So just
17 Q. Here. I'm going to give you	17 accept that with me right now.
18 A the white paper?	18 'Percent amphiboles in each aspect ratio group
19 Q all of this.	19 for talc Sample I, left, and M, right, compared with
20 A. Give me the white paper. 09:40:21	20 tremolite asbestos and tremolite nonasbestiform.' 09:43:15
21 Q. Ah, okay.	21 So let me ask you, as we zoom in on the
122 A. Let's see.	22 Johnson & Johnson, is the asbestos that you found a
22 A. Let's see. 23 It says 'crocidolite,' which is shown here. So	22 Johnson & Johnson, is the asbestos that you found a 23 tremolite asbestos?
23 It says 'crocidolite,' which is shown here. So	23 tremolite asbestos?

## Case £ 1330 2825 WBLK DiDo £ 3483 FHield 0 951/0 A222 Elliteter d 0 951/0 A220 88369220 DiDesc Exhibitive A26115: the Dattle Sketly ellie yield exhibition at 10 ARTP 1 age Plage of 215 1 of 225

1 dotted line?	1 A. Uh-huh. That's me.
2 A. Yes. That's what it what the that's what	2 Q. And is that your signature?
3 they found out about it.	3 A. Yes, that is.
4 Q. And if we look at your counts in these talcs on	4 Q. In fact, you signed your name in 1998 just
5 an earlier page and we look at that Sample I, which I 09:43:48	5 about exactly the same way you signed your name for me 09:46:29
6 think the record shows is the Johnson & Johnson Baby	6 at the bakery/coffee shop in Rutland, Vermont when I
7 Powder, these particles per milligram, is that how many	7 had you autograph your article.
8 particles you were finding of the asbestos?	8 A. Uh-huh. Yeah. Well
9 A. That's what I was finding on the slides, yes.	9 Q. That's 20 years you signed your name the same
10 Q. Needles and fibers? 09:44:08	10 way. 09:46:46
11 A. Can we go back just a little bit there?	11 A. Uh-huh.
12 Q. Yes. Tell me	12 Q. All right. So we've got your letter here.
13 A. The reason that I brought them up like you show	13 A. Yeah.
14 there is that it's very difficult sometimes when you	14 Q. And you wrote this letter to a law firm, that
15 look at something to know whether it's a needle or a 09:44:25	15 did asbestos work, Mehaffy & Weber in Beaumont. Do you 09:46:56
16 fiber or, you know, it's something that you have to	16 see that?
17 count or not.	17 A. Uh-huh.
But if you have a population and we know	18 Q. You said, 'Dr. Mr. Hatcher, according to your
19 what the population is because you've just marked it	19 letter of March 31, 1998, I've written and enclosed a
20 and when I go through and mine line up with that 09:44:35	20 report on the occurrence, regulation, and up-to-date 09:47:12
21 population, then I know it's asbestos. But if it	21 scientific views of asbestos amphiboles and
22 doesn't line up it may line up over here with the	22 intermediate fibers. I've also enclosed copies of my
23 other side and then I know it's not asbestos.	23 1990 and '91 papers, one of which I'm sure you already
24 Q. Ah. Okay. So the other side, because of the	24 have.'
25 sizes and all, is more nonasbestiform, but this is 09:44:51	25 Do you see where I am reading? 09:47:31
Page 3111	Page 3113
1 asbestiform or asbestos because you've got this ratio	1 A. Uh-huh.
2 down here that's so big? Is that it?	2 Q. Now, you said this, 'The 1991 paper was written
3 A. Uh-huh. That's the way that's	3 because I became aware it was a common opinion among
4 Q. Okay.	4 industrial hygienists that industrial talcs were better
5 A their population. 09:45:09	5 than pharmaceutical and cosmetic talcs because there 09:47:49
6 Q. All right. So this is asbestiform asbestos	6 was a regulation for the former and not the latter. I
7 that you were finding in the Johnson & Johnson Baby	7 knew this was not the case, and wanted to set the
8 Powder that you pulled off the shelf?	8 record straight.'
9 A. Uh-huh.	9 Do you see where I am reading?
10 Q. And you weren't doing this because anybody was 09:45:24	10 A. Uh-huh. 09:48:03
11 paying you money to do it, or you were getting paid to	11 Q. 'Although my papers report an improved method
12 do it?	12 for analysis'
13 A. No, I wasn't.	13 And that for the jury, we call that the
14 Well, I had some students working on some talc	14 Blount method, but I'm not they can read the paper
15 projects, I guess, so I may have you know, I may 09:45:36	15 if they want to see that. 09:48:13
16 have bought it then to show the students what it looked	16 'the determinations for the sample labeled
17 like, you know.	17 I, Johnson & Johnson's Vermont Vermont talc, have
18 Q. Part of your teaching?	18 been done by the traditional methods as well?'
19 A. Yeah.	19 So in addition to your Blount method, did you
20 Q. Okay. And then there's one other letter that 09:45:47	20 test it by traditional means? 09:48:28
21 I've found interesting.	21 A. Uh-huh, yes.
22 And we'll mark this as Exhibit Number 8.	22 Q. 'As I told you, I believe that Johnson &
23 And I'm looking specifically at a letter that	23 Johnson's Vermont talc contains trace amounts of
24 you wrote. 'Alice M. Blount, Ph.D., mineralogist,' is	24 asbestos which are well below those specified by OSHA?'
25 that you? 09:46:16	25 A. Uh-huh. 09:48:45
Page 3112	Page 3114

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1 With adults as well, and in many parts of the world, it 2 A. Uh-huh. 3 Q. It should be noted that the proposed FDA 4 regulation, which was never finalized, also specified 5 the same. I percent limit for amplibole abselsos as 90-48-53 6 OSHA? 7 Now, you are not a toxicologist; is that fair? 8 A. That's fair, yes. 9 Q. You don't know what level is safe or unsafe, 10 and you haven't done studies on the health effects; you 09-49-11 11 just know ashestos when you see it; is that right? 12 M. NUINE. Objection. Form. 13 THE WITNESS: That's right. That's right. 14 Dight 15 Q. And did you let the lawyers know about the 09-49-21 for Johnson & Johnson tale having these trace amounts of 12 ashestos in this letter? 18 A. Did I tell who? 19 Q. Yeah. Irmen, you didn't hide it, did you? 20 A. No. 21 Q. All right. Then - and, by the way, we know 22 that also because down in the corner of this letter - 23 see, here's the letter? 24 A. Uh-huh. 25 Q. Down in the corner, it's got these numbers. 26 Q. Down in the corner, it's got these numbers. 27 Q. Down in the corner, it's got these numbers. 28 A. Uh-huh. 29 Dy you see that? 3 A. Uh-huh. 4 Q. Ith highlight it. 5 That means we got this document from Johnson & 09-50-12 for Johnson in the corner of this letter - 28 showed it to you. had you seen this document since you you wrote it?  10 A. I don't think so. 11 Q. All right. So if we look, for example, at 21 representations made by the company - here's one on 13 their website. If sa - Till label it. It's Fathibit 1 world in the website blog 09-50-52 for their website. If sa - Till label it. It's Fathibit 1 world in the corner of this letter - 19 and the website blog 09-50-52 for the corner of this cheer. 10 A. I don't think so. 11 Bay powder made from cosmetic tale is one of 18 Johnson's dodest produce and a long-time part of baby 19 owe even seen this document ince you 19 owe website of the produce and in the corner of the produce and		
3 O, "It should be noted that the proposed FDA 4 regulation, which was never finalized, also specified 5 the same. I percent limit for amplibole abelses as 09-48-53 6 OSHA?" Now, you are not a toricologist; is that fair? 8 A. That's fair, yes. 9 Q. You don't know what level is safe or unsafe, 10 and you haven't done studies on the health effects; you 09-49-11 11 just know ashestors when you see it; is that right? 12 MR. DUBIN: Objection. Form. 13 THE WITNESS: That's right. That's right. 14 Dight 15 Q. And did you let the lawyers know about the op-49-21 16 Johnson & Johnson tale having these trace amounts of 17 ashestors in this letter? 18 A. Did I tell who? 19 Q. Yeah, I mean, you didn't hide it, did you? 20 A. No. 30 21 Q. All right. Then - and, by the way, we know 22 that also because down in the corner of this letter - 22 see, here's the letter? 22 A. U.h-bub. 25 Q. Down in the corner, it's got these numbers. 26 Low on in the corner, it's got these numbers. 27 A. U.h-bub. 28 Do you see where it suys that? 39 A. U.h-bub. 40 Q. I'll highlight it. 41 Dight. 42 Q. I'll highlight it. 43 Dight it who? 44 Q. I'll highlight it. 45 That means we got this document from Johnson & 09-50-12 46 Johnson, not from you. 47 Hey on even seem this document for Johnson & 09-50-12 48 Showed it to you, had you seen this document - before 1 48 Showed if to you, had you seen this document - before 1 48 Showed if to you, had you seen this document - before 1 48 Showed if to you, had you seen this document - before 1 49 Showed it to you, had you seen this document - before 1 49 Showed it to you, had you seen this document - before 1 49 Showed it to you, had you seen this document - before 1 40 A. I'll highly high it. 41 THE COURT: So 43-14, li helieve. 42 Go are ritual. 43 A. U.h-hub. 44 Q. I'll highlight it. 45 The course where it am reading that a state of the properties, was Johnson & 19-52-29 45 The you've being gaid. — 99-52-20 46 Johnson, not from you. 47 The you were seem this document of the properties of the cross-search and	1 Q. That's what you said, isn't it?	1 with adults as well, and in many parts of the world, it
4 regulation, which was never finalized, also specified 5 the same. I percent limit for amphibole ausbestos as 09-48-53 7 Now, you are not a toxicologist is that fair? 8 A. That's fair, yes. 9 Q. You don't know what level is safe or unsafe, 10 and you haven't done studies on the health effects; you 09-49-11 11 just show absetso when you see it is that right? 12 MR. DUIRIN: Objection. Form. 13 THE WITNESS: That's right. That's right. 14 Dight 15 Q. And did you let the lawyers know about the 09-49-21 16 Johnson & Dohnson tale having these trace amounts of 17 arbestos in this letter? 18 A. Did I tell who? 20 Q. All right. Then — and, by the way, we know 22 that also because down in the corner of this letter — 23 see, here's the letter? 21 Q. All right. Then — and, by the way, we know 22 that also because down in the corner of this letter — 23 see, here's the letter? 22 A. Q. Down in the corner, it's got these numbers. 09-49-54 A. U.B-huh. 25 Q. Down in the corner, it's got these numbers. 09-49-54 A. Q. Ill highlight it. 5 That means we got this document from Johnson & 09-50-12 1 Q. All right. So if we look, for example, at 12 representations made by the company — bere's one on 13 their website. It's a — Ill label it. It's Stabibit 14 Number 9, I talk also at the Fasts About That leadings. 11 The EQUIX: So at 11 the course of this letter — 13 their website. It's a — Ill label it. It's Stabibit 14 Number 9, I talk also at the Fasts About That leadings. 11 The EQUIX: So at 12 the research and a long-time part of baby 19 care ritual. 22 Q. And all I'm doing is setting up a context here 24 for the statement I'm going to ask you about. 25 This if the stuff used on babies; right? Do 09-51-10 21 you see where I am reading? 21 This is the stuff used on babies; right? Do 09-51-10 22 G. A. In finite. 23 Q. And all I'm doing is setting up a context here 24 for the statement I'm going to ask you about. 24 for the statement I'm going to ask you about. 25 This COURT. Yes. 11 the course of the statement I'm going to ask you about	2 A. Uh-huh.	2 remains an essential part of the makeup and skin care
5 the same. I percent limit for amphibole asbestos as 09:48:53 6 OSHA? 7 Now, you are not a toxicologist; is that fair? 8 A. That's fair, yes. 9 Q. You don't know what level is safe or unsafe, 10 and you haven't done studies on the health effects; you 09:49:11 11 just know asbestos when you see it; is that right? 12 MR. DURINS. Objection. Form. 13 THE WITNESS: That's right. That's right. 14 Ogle. 15 Q. And did you let the lawyers know about the 09:49:21 16 Johnson & Johnson tule having these trace amounts of 17 asbestos in this letter? 18 A. Did I tell who? 19 Q. Yeah. I mean, you didn't hide it, did you? 20 A. No. 09:49:36 21 Q. All'night. Then and, by the way, we know 22 that also because down in the corner of this letter 23 see, here's hee letter? 24 A. Uh-hab. 25 Q. Down in the corner, it's got these numbers. 09:49:54 A. Uh-hab. 26 Q. Down in the corner, it's got these numbers. 09:49:54 Doy ou see that? 3 A. Uh-hab. 4 Q. I'll highlight it. 5 That means we got this document from Johnson & 09:50:12 5 Johnson, no from you. 7 Have you even seen this document from Johnson & 09:50:12 10 Q. All right. Sof if we look, for example, at 12 representations made by the company here's one on 13 their website. It's a I'll label it. If's Faibibit 14 Numbers   1 like, shout the seets had of the context. 19 lis gain go basic to be beginning of the cross. 11 Q. All right. Sof if we look, for example, at 12 representations made by the company here's one on 13 their website. It's a I'll label it. If's Faibibit 14 Numbers   1 like, shout the seets had of the cross. 11 like it is one of 18 Johnson's bleest products and a long-time part of baby 19 one refinal. 21 Q. A. Right. Sof if we look, for example, at 19 like website long on the stuff used on babies; right? Do 09:51:20 22 A. Yes, I see that. 23 Q. And all I'm doing is setting up a context here 24 for the statement I'm going to as you about. 25 like you see where I am reading? 21 like Sout Here Seets About Tale seets and 10 like it is in going to as lice her	3 Q. 'It should be noted that the proposed FDA	3 routines.'
6 O. Now., if you look at the very first bullet point 7 Now, you are not a toxicologist; is that fair? 8 A. That's fair, yes. 9 Q. You don't know what level is safe or unsafe, 10 and you haven't done studies on the health effects; you 09-49-11 11 just know asbestos when you see it is that right? 12 MR. DUBIN: Objection. Form. 13 THE WITMERS: That's right. That's right. 14 Dight 15 Q. And did you let the lawyes know about the 09-49-21 16 Johnson & Johnson talc having these trace amounts of 17 asbestos in this letter? 18 A. Did I tell who? 19 Q. Yeah. I mean, you didn't hide it, did you? 20 A. No. 21 Q. All right. Then — and, by the way, we know 22 that also because down in the corner of this letter— 23 see, bare's the letter? 24 A. Urh hub. 25 Q. Down in the corner, it's got these numbers. 26 Q. Down in the corner, it's got these numbers. 27 A. Urh hub. 28 Q. Down in the corner, it's got these numbers. 29 Day ou see that? 3 A. Urh - hub. 4 Q. Il' highlight it. 5 That means we got this document from Johnson & 09-50-12 1 J. A.J. John of from you. 7 Have you even seen this document from Johnson & 09-50-12 10 Q. All right. So if we look, for example, at 12 representations made by the company — here's one on 13 their website. It's a — Ill label it. It's Exhibit 14 Number 9, I talks about the Facts About Tale safety. 15 February 24, 2016. This is just on the website blog 09-50-52 16 I All Jonn. 17 Baby powder made from cosnetic tale is one of 18 Johnson's Oldest products and a long-time part of baby 19 care citual. 23 Q. And all I'm doing is setting up a context here 24 Go from tatement I'm going to ask you about. 24 THE COURT: Yes, indeed. 25 The contract of the statement I'm going to ask you about. 25 The contract of the statement I'm going to ask you about. 26 This is the stuff used on habies; right? Do 09-51:10 27 This is the stuff used on habies; right? Do 09-51:10 28 Go, And all I'm doing is setting up a context here 24 for the statement I'm going to ask you about. 29 This is the stuff used on habies; right? Do	4 regulation, which was never finalized, also specified	4 Do you see where it says that?
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8 A. That's fair, yes. 9 Q. You don't know what level is safe or unsafe, 10 and you haven't done studies on the health effects; you (09-49-11) 11 just know abbestos when you see it: is that right? 12 MR. DiBIN: Objection. Form. 13 THE WITNESS: That's right. That's right. 14 Dights 15 Q. And did you let the lawyers know about the (09-49-21) 16 Johnson & Johnson Lich having these trace amounts of 17 asbestos in this letter? 18 A. Did I tell who? 19 Q. Yeah. I mean, you didn't hide it, did you? 20 A. No. 21 Q. All right. Then – and, by the way, we know 22 that also because down in the corner of this letter – 23 see, here's the letter? 22 A. A. Uh-huh. 25 Q. Down in the corner, it's got these numbers. 26 Johnson, not from you. 27 Have you even seen this document from Johnson & 09-50-12 28 A. Uh-huh. 29 Q. You give seen this document from Johnson & 09-50-12 30 Johnson, not from you. 31 Jean Johnson, was chard and you seen this document since you 9 wrote it? 32 A. Uh-huh. 33 A. Uh-huh. 44 Q. Ill highlight it. 45 That means we got this document from Johnson & 09-50-12 46 Johnson, not from you. 47 Have you even seen this document since you 9 wrote it? 48 A. Uh-huh. 49 Q. Ill highlight it. 40 A. Ill right. So if we look, for example, at 12 representations made by the company – here's one on 13 their website. It's a – Ill lacti. It is Eshibit 14 Number 9. It talks about the Facts About Tale safety. 41 February 24, 2016. This is just on the website blog 09-50-52 42 A. Orande who are one of this is the stuff med on babies; right? Do 09-51-10 16 of the cross ado as it can be. The audio on that part 14 was a linte quieter. 42 February 24, 2016. This is got on the website blog 09-50-52 43 Johnson's foldest products and a long-time part of baby 19 orare fittal. 44 Orande who are one of the popular of baby 19 orare fittins. 45 Johnson's foldest products and a long-time part of baby 19 orare fittins. 46 Johnson's foldest products and a long-time part of baby 19 orare fittins. 47 Johnson's Baby Powder continues to be popular of 9	6 OSHA?'	6 Q. Now, if you look at the very first bullet point
9 Q. You don't know what level is safe or unsafe, 10 and you haven't done studies on the health effects; you 09:49:11 11 just know abstess when you see it is that right. 12 MR, DUBIN: Objection. Form. 13 THE WITNESS: That's right. That's right. 14 Dight. 15 Q. And did you let the lawyers know about the 09:49:21 16 Johnson & Johnson talc having these trace amounts of 17 asbestos in this letter? 18 A. Did I tell who? 19 Q. Yeal. I mean, you didn't hide it, did you? 20 A. No. 09:49:36 21 Q. All right. Then - and, by the way, we know 22 that also because down in the corner of this letter? 23 see, here's the letter? 24 A. Uh-hub. 25 Q. Down in the corner, it's got these numbers. 09:49:54 Page 3115  1 J&J-049150. 2 Do you see that? 3 A. Uh-hub. 4 Q. I'll highlight it. 5 That means we got this document from Johnson & 09:50:12 6 Johnson, not from you. 7 Have you even seen this document - before 1 8 showed it you, had you seen this document since you 9 wrate it? 10 A. I don't think so. 09:50:20  11 Q. All right. So if we look, for example, at 12 representations made by the company - here's one on 13 their website. It's a - I'll label it, I'ls Exhibibit 14 Number 9. It talks about the Facts About Talc safety. 15 February 24, 2016. This is just on the website blog 09:50:52 10 This is the stuff used on babies; right? Do 09:51:10 21 You see where I am reading that? 2 A. The Interval of the trace amounts of 19:49:54 2 Do you see where I am reading that? 3 A. Yes. 2 Do you see where I am reading that? 3 A. Yes. 2 Do you see where I am reading that? 3 A. Yes. 2 Do you see where I am reading that? 3 A. Yes. 2 Do you see where I am reading that? 4 Q. Dr. Blount, based upon what you know from what the part shows in the tester. 2 Do you see where I am reading that? 4 Q. Dr. Blount, based upon what you know from what 4 Q. Dr. Blount, based upon what you know from what 4 Q. Dr. Blount, based upon what you know from what 4 Q. Dr. Blount, based upon what you know from what 19:50:40 2 Do you see where I am reading that? 3 A. Vis. In th	7 Now, you are not a toxicologist; is that fair?	7 here, 'A frequent misperception is that Johnson's Baby
10 and you haven't done studies on the health effects; you 09:49:11 11 just know abestos when you see it is that right? 12 MR. DUBN: Objection. Form. 13 THE WITNESS: That's right. That's right. 14 Dight 15 Q. And did you let the lawyers know about the 09:49:21 16 Johnson & Johnson tale having these trace amounts of 17 abestos in this letter? 18 A. Did I fell who? 19 Q. Yeah. I mean, you didn't hide it, did you? 20 A. No. 09:49:36 21 Q. All right. Then — and, by the way, we know 22 that also because down in the corner of this letter — 23 see, here's the letter? 24 A. Uh-hah. 25 Q. Down in the corner, it's got these numbers. 09:49:54 A. Uh-hah. 26 Q. Down in the corner, it's got these numbers. 09:49:54 Q. Diff lightlight it. 5 That means we got this document from Johnson & 09:50:12 6 Johnson, not from you. 7 Have you even seen this document — before 1 8 showed it to you, had you seen this document since you 9 wrote it? 10 A. I don't hink so 09:50:20 11 Q. All right. So if we look, for example, at 12 representations made by the company — here's one on 18 Johnson's oldest products and a long-time part of baby 19 care ritus! 20 This is the stuff used on babies; right? Do 09:51:10 21 you see where I am reading? 31 A. Yes. 4 Q. Dr. Blount, based upon what you know from what 15 you did and your expertise, was Johnson & Johnson's 09:52:13 6 Baby Powder in the 19 — since the 1970s. 2 blow of in have abeleuos in it?  18 MR. DUBIN: Objection, Form.  19 Q. Yeah. I mean, you didn't hide it, did you? 21 Q. Hib. Dr. Blount. How are you? 22 A. This find a shesture. 23 See, here's the letter? 24 A. Uh-hah. 25 Q. Dony in the corner, it's got these numbers. 09:49:54  1 J.	8 A. That's fair, yes.	8 Powder contains talc made with asbestos, a substance
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13 THE WITNESS: That's right. That's right.  14 Page 13 A. Y.S.  15 Q. And did you let the lawyers know about the 09-39-21 16 Johnson & Johnson talc having these trace amounts of 17 asbestos in this letter?  18 A. Did I tell who?  19 Q. Yeah. I mean, you didn't hide it, did you?  20 A. No. 09-49-36  21 Q. All right. Then and, by the way, we know 22 that also because down in the corner of this letter 23 see, here's the letter?  24 A. Uh-luth.  25 Q. Down in the corner, it's got these numbers. 09-49-54 Page 3115  1 J&J-049150.  2 Do you see that?  3 A. Uh-luth.  4 Q. I'll highlight it.  5 That means we got this document from Johnson & 09-50-12 6 Johnson, not from you.  7 Have you even seen this document since you 9 wrote it?  10 A. I don't think so. 09-50-20  11 Q. All right. So if we look, for example, at 12 expresentations made by the company - here's one on 13 their website. It's a - I'll label it. It's Exhibit 14 Number 9. It talks about the Facts About Tale safety. 15 February 24, 2016. This is just on the website blog 09-50-20 16 J&J.com.  17 Baby powder musel from cosmetic tale is one of 18 Johnson's oldest products and a long-time part of baby 19 care ritual.*  28 A. V. S. I see that. 23 Q. And all I'm doing is setting up a context here 24 for the statement I'm going to ask you about. 24 for the statement I'm going to ask you about. 25 Johnson's Baby Powder continues to be popular 09-51:22 5 Johnson's Baby Powder continues to be popular 09-51:22 5 Johnson's Baby Powder continues to be popular 09-51:22 5 Johnson's Baby Powder continues to be popular 09-51:22 5 Johnson's Baby Powder continues to be popular 09-51:22 5 Johnson's Baby Powder continues to be popular 09-51:22 5 Johnson's Baby Powder continues to be popular 09-51:22 5 Johnson's Baby Powder continues to be popular 09-51:22 5 Johnson's Baby Powder continues to be popular 09-51:22 5 Johnson's Baby Powder continues to be popular 09-51:22 5 Johnson's Baby Powder continues to be popular 09-51:22 5 Johnson's Baby Powder continues to be popular 09-	11 just know asbestos when you see it; is that right?	1 asbestos-free.'
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19 Q. Yeah. I mean, you didn't hide it, did you? 20 A. No. 094-936 21 Q. All right. Then and, by the way, we know 22 that also because down in the corner of this letter 23 see, here's the letter? 24 A. Uh-huh. 25 Q. Down in the corner, it's got these numbers. 0949-54 Page 3115  1 J&J-049150. 2 Do you see that? 3 A. Uh-huh. 4 Q. I'll highlight it. 5 That means we got this document from Johnson & 09:50:12 6 Johnson, not from you. 7 Have you even seen this document before I 8 showed it to you, had you seen this document since you 9 wrote it? 10 A. Idon't think so. 09:50:20  11 Q. All right. So if we look, for example, at 12 representations made by the company here's one on 13 their website. It's a I'll label it. It's Exhibit 14 Number 9. It talks about the Facts About Tale safety. 15 February 24, 2016. This is just on the website blog 09:50:52 16 J&J.com. 17 Baby powder made from cosmetic tale is one of 18 Johnson's oldest products and a long-time part of baby 19 care ritual.* 20 This is the stuff used on babies; right? Do 09:51:10 21 you see where I am reading? 21 Johnson's Baby Powder continues to be popular 09:51:22 25 "Johnson's Baby Powder continues to be popular 09:51:22 26 Lata MINATION BY MR. DUBIN: 09:52:29 27 Q. Hir, Dr. Blount. How are you? 28 Q. A. I'm fine. 29 Q. A. I'm fine. 20 G. Hir, Dr. Blount. How are you? 29 Q. During the break, just to address, first, 24 counsel who is here with you with you with you with, Mr. Lanier, 09:52:240 20 Popular 19 Q. All right. 10 address, first, 24 counsel who is here with you with, Mr. Lanier, 09:52:240 21 MR. DATIERLEY. Count and point to address, first, 24 counsel who is here with you with, Mr. Lanier, 09:52:240 22 A. Yes, I see that. 21 MR. DUBIN: 09 Q. Datient the outer of the statement I'm doing is setting up a context here 24 for the statement I'm doing is setting up a context here 25 Lanier, 109:55:23	17 asbestos in this letter?	7 asbestos-free, or did it have asbestos in it?
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1 Okay.	1 Q. And in particular, for example, there may be
2 So this is we looked at this before as	2 areas towards the edges of talc deposits where the talc
3 Exhibit 8.	3 comes into contact with things like country rock, or
4 A. Uh-huh.	4 you call it black rock, or the like; right?
5 Q. And here you're talking about how you're 10:45:11	5 A. Uh-huh. 10:48:10
6 writing to the lawyers for Johnson & Johnson, and	6 Q. And so at those edges of those deposits, if you
7 you're saying, 'Johnson & Johnson, I've looked at it as	7 sample over there, you might be more likely to find
8 labeled sample labeled T by traditional methods.	8 asbestos because it's in conjunction with that that
9 See Table 2, 5, 67 in the 1990 paper.'	9 harder rock mineral, and there's also different
10 Right? 10:45:33	10 minerals that can come into play because of where it is 10:48:24
11 A. Uh-huh.	11 geologically; right?
12 Q. So this is the 1990 paper we talked about that	12 A. Yes. They are not really homogenous, most
13 had some results for Johnson & Johnson.	13 deposits.
14 A. Uh-huh.	14 Q. And so it's important to consider, when you're
15 Q. So the next time you look at Johnson & Johnson, 10:45:42	15 looking at a result of a talc sample, where that talc 10:48:37
16 though the next time you have a Sample I, that's not	16 sample was actually taken from in a deposit; right?
17 going to be Johnson & Johnson anymore; right?	17 A. Right.
18 A. Yeah. Probably not.	18 Q. And you were asked a little bit about hide and
19 Q. And so when you do your analysis for your 1991	19 seek and all the like.
20 paper, 'Amphibole content of cosmetic and 10:45:59	20 First, do you agree that an expert should not 10:48:53
21 pharmaceutical talcs' and you've got results for	21 change their testing methodology just based on who is
22 Sample I, because you've randomly blinded this, it's	22 paying them in the litigation?
23 likely that 'I' isn't going to be Johnson & Johnson	23 A. Right.
24 again; right? 25 A. Yeah. It may not be. 10:46:25	24 Q. Right? And do you agree that if you're trying 25 to answer the question whether there's asbestos in a 10:49:07
25 A. Yeah. It may not be. 10:46:25 Page 3155	Page 3157
1 Q. So was this you were asked about how many	1 material, you should use methods that help you
2 times you've looked at Johnson & Johnson. Was the	2 distinguish between asbestiform and nonasbestiform
3 bottle that we've got as Exhibit 14 was that the	3 amphiboles; right? If that's if the question you're
4 first one that you bought to analyze?	4 being asked is, is there asbestos, you should use the
5 A. I bought that one last in New Jersey. It 10:46:38	5 right methods to answer that question; right? 10:49:26
6 may have not have been the first one.	6 A. Right.
7 Q. Do you have any results of any analysis that	7 EXAMINATION BY MR. LANIER:
8 you did on any bottles other than this one?	8 Q. Dr. Blount, after all these questions are said
9 A. I'll have to look. I don't know.	9 and done, after everything that's been discussed, just
10 Q. Okay. Fair to say, though, you've kept this 10:47:04	10 based on what you did in your work, in your life, never 10:49:38
11 bottle for now somebody help me with the math 23,	11 dreaming lawyers would contact you, can you affirm that
12 22 years; right?	12 for decades in the '80s and the '90s, at least, into
13 A. 22 years.	13 the 2000s, Johnson & Johnson Baby Powder sold on the
14 Q. And if you had tested other bottles of Johnson	14 shelves had asbestos and asbestiform in it?
15 & Johnson, any reason you wouldn't have maintained 10:47:20	
16 those also?	16 EXAMINATION BY MR. DUBIN:
17 A. I don't know.	17 Q. You were asked a very general question by
18 Q. Okay. But at least sitting here today, there's	18 Mr. Lanier.
19 no results of any other testing that I can take take	19 Do you agree the best way to determine whether
	20 or not there was asbestos in these products is to look 10:50:07
	_
A. With us today, no, don't think so.	21 at the actual testing results?
22 Q. Is it fair to say that when you look at a large	22 A. Look at the test, yeah.
23 talc deposit, there may be geological diversity in	23 Q. Right. And so other than whatever we have in
24 that in that deposit; right?	24 your papers that you brought here today, we have none
25 A. More than likely. 10:47:54 Page 3156	25 of these test results that you're supposedly relying on 10:50:22 Page 3158

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1 shorter video. 2 shard Mr. Landre and red and that betweense Prenerer 3 been cu-counsel with him. So that argament is -1 4 don't think kears any weight. 5 The issue is, if Your Honor is going to issue 10:55:38 6 an instruction about her, it should have related to 7 discovery in that case. 8 That was an instruction that judge made because of 9 discovery in that case. 10 THE COURT: Right. But — the laphan case. 8 That was an instruction that judge made because of 9 discovery in that case. 11 MR. SATTERLEY: Three years have passed. 12 THE COURT: Right. But — wo what I'm going to 13 do is read what's in the lugham transcript on page 861, 14 line of through 861, line 9 And — because that's 15 where the said the didn't maintain any such documents. 10:56015 16 Loon't think that's graticularly prejudicial. 17 She didn't craim any such documents. 10:56022 10 The COURT: Right. But — 10:56:22 21 The most going to read what's in the lugram case. 10:56022 22 That may come up later with some wintesses, but that, 23 not put of this transcript. 24 MR. SATTERLEY: New Your Honor. 25 That may come up later with some wintesses, but that, 26 THE COURT: Fine. All right. Let's take a 3 break. 27 THE COURT: What time do we come back? 28 That may come up later with some wintesses, but than in a room. 29 MR. SATTERLEY: What time do we come back? 3 THE COURT: What time do we come back? 4 MR. SATTERLEY: What time do we come back? 5 THE COURT: When come back. I said I on time in a large in the main of more fact I want to tell you about. 10 MR. SATTERLEY: Yes, Your Honor. 21 MR. SATTERLEY: And Kevin, can you play that. 22 Off the record). 23 THE COURT: He come back. I said I on the main of the consumers are should be seen that the largement case, and the l		
3 The next is a video produced by Johnson & 4 Johnson & 4 Johnson of Christian Koffmann, the former worldwide 5 chairman of the consumer and personal care group. 1 11:12:59 6 an instruction about her, it should have related to 7 discovery in that case, discovery in the Inglam case. 8 That was an instruction about her, it should have related to 9 discovery in that case. 8 That was an instruction about her, it should have related to 9 discovery in that case. 8 That was an instruction that judge made because of 9 discovery in that case. 8 That was an instruction that judge made because of 9 discovery in that case. 8 That was an instruction that judge made because of 9 discovery in that case. 8 That was an instruction about her, it should have related to 7 discovery in that case. 8 That was an instruction about her, it should have related to 7 discovery in that case. 8 That was an instruction that judge made because of 9 discovery in that case. 8 That was an instruction about her, it should have related to 7 discovery in that case. 8 That was an instruction about her, it should have related to 8 discovery in that case. 8 That was an instruction about her, it should have related to 8 discovery in that case. 8 That was an instruction that judge made because of 9 discovery in that case. 8 That was an instruction that judge made because of 9 discovery in that case. 8 That was an instruction that judge made because of 9 discovery in that case. 9 discovery in that case. 11 discovery in that case. 12 THE COURT: Finger, case mixed. 12 Eventual that case and that should have related to 10 CHRISTIAN ROFFMANN 11:13:06 12 (Golden Egger and that develope) 13 do is read what's in the Ingram case. 13 break. 14 Hellou, everyone. You ge for opend two and a 1 Hellou, everyone. You ge for opend two and a 1 Hellou, everyone. You ge for opend two and a 1 Hellou, everyone. You ge for opend two and a 1 Hellou, everyone. You ge for opend two and a 1 Hellou, everyone. You ge for opend two and a 1 Hellou, everyone. You ge for opend two and	1 MR. SATTERLEY: Yes. You know, I don't know	1 shorter video.
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7 THE COURT: All right. 8 That was an instruction that judge made because of discovery in this case, discovery in that case. 10 THE COURT: Right. Right. 10 THE COURT: Right. Right. 11 MR, SATTERLEY: Three years have passed. 11 (Exhibit 7707 as marked) 12 THE COURT: Right. But - so what I'm going to 13 do is read what's in the lingham transcript on page 861. 13 this exh through 861, line 9. And - because that's 15 where she said she didn't maintain any such documents. 10.56.08 15 he didn't rebuse anything. It was part and parcel of 18 the testimony as it came in at the lingram case. That's 19 what the deposition is from, and so that seems 20 reasonable to me. 10.56.22 21 I'm not going to read the part about the bottle 22 because that's - that want in the lingram case, and 23 not part of this transcript. 24 MR, DUBIN: Okay. That's fine, Your Honor. 25 That may come up later with some witnesses, but that's 10.56.34 Page 3163 1 fine at this point. 2 THE COURT: Fine. All right. Let's take a 3 break. 4 MR, SATTERLEY: What time do we come back? 5 THE COURT: Assuming the video is ready. Okay. 10 MR, SATTERLEY: Yes, Your Honor. 9 THE COURT: Assuming the video is ready. Okay. 10 MR, SATTERLEY: Yes, Your Honor. 9 THE COURT: Assuming the video is ready. Okay. 10 MR, SATTERLEY: Yes, Your Honor. 9 THE COURT: Assuming the video is ready. Okay. 10 MR, SATTERLEY: Yes, Your Honor. 9 THE COURT: Assuming the video is ready. Okay. 10 MR, SATTERLEY: Yes, Kevin, are you ready with 10.56.31 1 He court. All right. Welcome back. I 14 applogize for that segment taking longer. I didn't 14 dia appropriate. 10 The Court is a general and that is that after Dr. Blount's deposition was 11:12:14 16 appropriate. 11 apple. 20 Dr. Blount to provide any documents or data. 20 Dr. Blount to provide any documents or data. 20 Dr. Blount to provide any documents or data. 20 Dr. Blount to provide any documents or data. 20 Dr. Blount to provide any documents or data. 20 Dr. Blount to provide any documents or data. 20 Dr. Blount to provide any documents or	5 The issue is, if Your Honor is going to issue 10:55:38	5 chairman of the consumer and personal care group. I 11:12:59
8 MR. SATTERLEY: And Kevin, can you play that. 9 discovery in that case. 10 THE COURT: Right. Right. 10 THE COURT: Right. Right. 11 MR. SATTERLEY: Three years have passed. 12 THE COURT: Right. Butso what I'm going to 12 For the Plaintiff via videotope) 13 do is read what's in the Ingham reascript on page 861, 14 line 4 through 861, line 9. And because that's 14 where she said she didn't maintain any such documents. 10-56-08 for this that's particularly prejudicial. 17 She didn't refuse anything. It was part and parcel of 18 the testimony as it came in at the Ingram case. That's 19 what the deposition is from, and so that seems 20 reasonable to me. 10 The Court of this transcript. 24 MR. DuBin: Okay. That's fine, Your Honor. 25 That may come up later with some witnesses, but that's 10-56-34 Page 3165 26 THE COURT: Fine. All right. Let's take a 3 break. 4 MR. SATTERLEY: What time do we come back? 5 THE COURT: A samming the video is ready. Okay. 9 THE COURT: A samming the video is ready. Okay. 11 MR. SATTERLEY: Yes, Your Honor. 12 (Off the record.) 13 THE COURT: A samming the video is ready. Okay. 14 "Hello, everyone. You get to spend two and a 1 half days of your busy schedules to accomplish in my 18 mind two objectives. First of all, understand the 19 equity in order to nutrure it in your respective 20 companies. IT call this objective 'To Burnish the 11:13:39 21 Fun not going to read the part about the bottle 21 Golden Egg' or "To Add to the Goldmine.' 22 The golden egg so our ceptity. In the mind of 23 consumers, Johnson & Johnson & Johnson, the answer 11:14:401 Page 3165  14 met this point. 2 THE COURT: Passent in the Ingram case, and 23 company in all sorts of businesses, and with the image 4 of a trustworthy, caring, small company. That's what 50 control in the state of 10 company in all sorts of businesses, and with the image 4 of a trustworthy, caring, small company. That's what 51:14:24  15 this kinterrupting the video at that point was 11:12:14  16 There's one more fact I want to tell you about. 1	6 an instruction about her, it should have related to	6 think it's a only a few minutes long.
9 THE COURT: Fingers crossed. 10 THE COURT: Right. Right. 10:55:50 11 MR. SATTERLEY; Three years have passed. 12 THE COURT: Right. But -so what I'm going to 13 do is read what's in the infighant transcript on page 861. 14 line 4 through 861, line 9. And - because that's 15 where she said she didn't maintain any such documents. 10:56:08 16 I don't think that's particularly prejudicial. 17 She didn't refuse anything. It was part and parcel of 18 the testimony as it came in at the largam case. That's 19 what the deposition is from, and so that seems 20 reasonable to me. 10:56:22 21 I'm not going to read the part about the bottle 22 because that's - that wasnt in the largam case, and 23 not part of this transcript. 24 MR. DUBIN: Okay. That's fine, Your Honor. 25 That may come up later with some witnesses, but that's 26 read this point. 27 THE COURT: Fine. All right. Let's take a 3 break. 4 MR. SATTERLEY; What time do we come back? 5 THE COURT: Pine and I right. Let's take a 3 break. 4 MR. SATTERLEY; What time do we come back? 5 THE COURT: Assuming the video is ready. Okay. 11 the video? 12 (Off the record.) 13 THE COURT: Assuming the video is ready. Okay. 11 the video? 12 (Off the record.) 13 THE COURT: Assuming the video is ready. Okay. 11 the video? 12 (Off the record.) 13 THE COURT: Assuming the video is ready. Okay. 14 The COURT: Assuming the video is ready. Okay. 15 THE COURT: Assuming the video is ready. Okay. 16 the video? 17 The court is a sum of the part about the bottle 18 had that is that after Dr. Blount's deposition was 11 the video? 19 THE COURT: Assuming the video is ready. Okay. 21 The golden egg is our captury. In the mind of 23 consumers. 10:56:08 22 The golden egg is our captury. In the mind of 23 consumers are of Johnson & Johnson, the answer 11:14:10 23 THE COURT: Assuming the video is ready. Okay. 24 The golden egg is our captury. In the mind of 24 consumers are of Johnson & Johnson is in your present the Natsuan, the 10:56:43 25 The golden egg is our captury. In the mind of 25 consumers, John	7 discovery in this case, discovery in the Ingham case.	7 THE COURT: All right.
10 THE COURT: Right. Right. 10:55:50 11 MR. SATTERLEY: Three years have passed. 12 THE COURT: Right. But — so what I'm going to 13 do is read what's in the Ingham transcript on page 861. 14 line 4 through 861, line 9. And — because that's 15 where she said she didn't maintain any such documents. 16 I don't think that's particularly prejudicial. 17 She didn't refuse anything. It was part and parcel of 18 the testimony as it came in at the Ingram case. That's 19 what the deposition is from, and so that seems 20 reasonable to me. 21 I'm not going to read the part about the bottle 22 because that's — that wasn't in the Ingram case, and 23 not part of this transcript. 24 MR. DUBIN: Okay. That's fine, Your Honor. 25 That may come up later with some witnesses, but that's 10:56:34 Page 3163  1 fine at this point. 2 THE COURT: Fine. All right. Let's take a 3 break. 4 MR. SATTERLEY: What time do we come back? 5 THE COURT: We come back, I said I0 minutes 10:56:34 Page 3163  1 fine at this point. 2 THE COURT: See, Sevin, are you ready with 10:56:51 11 the video? 12 (Off the record.) 3 THE COURT: Assuming the video is ready. Okay. 4 MR. SATTERLEY: Yes, Your Honor. 9 THE COURT: Assuming the video is ready. Okay. 10 MR. SATTERLEY: Yes, Kevin, are you ready with 10:56:50 11 the video? 12 (Off the record.) 13 THE COURT: Assuming the video or that point was 11:12:14 14 apologize for that segment taking longer. I didn't 15 think interrupting the video or that point was 11:12:14 15 think interrupting the video and that point was 11:12:14 16 This is our foundation. You are extracting two and a 12 hard flays of your busy schedules to accomplish in my 18 half days of your busy schedules to accomplish in my 18 half days of your busy schedules to accomplish in my 18 half days of your busy schedules to accomplish in my 18 half days of your busy schedules to accomplish in my 18 half days of your busy schedules to accomplish the 11:13:13 16 This is our foundation. You are extracting two and a 11:13:14 17 The court is a deal of the part of	8 That was an instruction that judge made because of	8 MR. SATTERLEY: And Kevin, can you play that.
11 MR. SATTERLEY: Three years have passed. 12 THE COURT: Right. But so what I'm going to 12 For the Plaintiff via videotape) 13 was played to the jury as follows: 14 Hello, everyone. You get to spend two and a 15 half days on the Baby Franchise. This is our diagship. 11:13:16 16 Hollowers was played to the jury as follows: 14 Hello, everyone. You get to spend two and a 15 half days on the Baby Franchise. This is our diagship. 11:13:16 16 His is our foundation. You are extracting two and a 17 half days of your busy schedules to accomplish in my 18 mind two objectives. First of all, understand the 19 equity in order to murture it in your respective 20 companies. Tile all this objective To Burnish the 11:13:39 21 Golden Egg' or 'To Add to the Goldmine.' 22 because that's - that wasn't in the Ingram case, and 23 not part of this transcript. 24 MR. DUBIN: Okay. That's fine, Your Honor. 25 That may come up later with some witnesses, but that's 10:56:34 Page 3163 1 fine at this point. 2 THE COURT: Fine. All right. Let's take a 3 hreak. 4 MR. SATTERLEY: What time do we come back? 5 THE COURT: We come back, I aid 10 minutes of after 11:00. And 1 think we can just go in the main 7 room. 8 MR. SATTERLEY: Yes, Your Honor. 9 THE COURT: All right. Welcome back. 1 14 apologize for that segment taking longer. I didn't 14 apologize for that segment taking longer. I didn't 15 think interrupting the video at that point was 11:12:14 16 fow draw from this corporate image. 11:12:29 1 testing she'd done on Johnson & Johnson products since 2 the 1991 paper. 2 So. Mr. Sattedey, I think we now have a much 11:12:40 20 the baby tollery business. 2 Sto 30 percent if you 11:15:29 2 2 double digits and even more profitable than it is 3 today." 11:15:48	9 discovery in that case.	9 THE COURT: Fingers crossed.
12 For the Plaintiff via videotape) 13 do is read what's in the Ingham transcript on page 861, 14 line 4 through 861, line 9. And - because that's 15 where she said she didn't maintain any such documents. 10:56:08 16 I don't think that's particularly prejudicial. 17 She didn't retize anything. It was part and parcel of 18 the testimony as it came in at the Ingram case. That's 19 what the deposition is from, and so that seems 20 reasonable to me. 10:56:22 21 I'm not going to read the part about the bottle 22 because that's that wasn't in the Ingram case, and 23 not part of this transcript. 24 MR. DUBIN: Okay. That's fine, Your Honor. 25 That may come up later with some witnesses, but that's 10:56:34 A MR. SATTERLEY: What time do we come back? 5 THE COURT: Fine. All right. Let's take a 3 break. 4 MR. SATTERLEY: Who time do we come back? 5 THE COURT: We come back, I said 10 minutes 10:56:43 6 after 1:00. And I think we can just go in the main 7 room. 8 MR. SATTERLEY: Yes. Your Honor. 9 THE COURT: Assuming the video is ready. Okay. 10 MR. SATTERLEY: Yes. Kevin, are you ready with 10:56:53 11 the video? 12 (Off the record.) 13 THE COURT: All right. Welcome back. I 14 applogize for that segment taking longer. I didn't 15 what interrupting two video is ready. Okay. 16 And that is that after Dr. Blount's deposition was 11:12:14 16 appropriate. 17 There's one more fact I want to tell you about. 18 And that is that after Dr. Blount's deposition was 10 taken in the case where that was, defendants requested 20 Dr. Blount responded that she did not maintain and any such documents or data. 21 South Statefey, I think we now have a much 11:12:48 22 So. Mr. Sattedey, I think we now have a much 11:12-48 23 So. Mr. Sattedey, I think we now have a much 11:12-49 24 any such documents or data.	10 THE COURT: Right. Right. 10:55:50	10 CHRISTIAN KOFFMANN 11:13:06
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14 "Hello, everyone. You get to spend two and a 15 where she said she didn't maintain any such documents. 16 I don't think that's particularly prejudicial. 17 She didn't refuse anything. It was part and parcel of 18 the testimony as it came in at the Ingram case. That's 18 what the deposition is from, and so that seems 20 reasonable to me. 10:56:22 21 I'm not going to read the part about the bottle 22 because that's - that wasn't in the Ingram case, and 23 not part of this transcript. 24 MR. DUBIN: Okay. That's fine, Your Honor. 25 That may come up later with some witnesses, but that's 26 after 11:00. And I think we can just go in the main 27 room. 28 MR. SATTERLEY: What time do we come back? 30 MR. SATTERLEY: Yes, Your Honor. 49 THE COURT: Assuming the video is ready. Okay. 10 MR. SATTERLEY: Yes, Kevin, are you ready with 10:56:43 11 the video? 12 (Off the record.) 13 THE COURT: All right. Welcome back. I the shirt was proportate. 17 There's one more fact I want to tell you about. 18 The second oblines on the saw where that was, defendants requested 20 Dr. Blount to provide any documents or data concerning 21 Lesting she'd done on Johnson & Johnson products since 22 the 1991 paper. 24 MR. Satterley, I think we now have a much 11:12:41 25 So, Mr. Satterley, I think we now have a much 11:12:41 26 appropriate. 27 The court is a first point is the Johnson & Johnson products since 28 the 1991 paper. 29 Dr. Blount responded that she did not maintain 29 So, Mr. Satterley, I think we now have a much 11:12:41 20 So, Mr. Satterley, I think we now have a much 11:12:41 21 So, Mr. Satterley, I think we now have a much 11:12:41 22 So, Mr. Satterley, I think we now have a much 11:12:41 23 So, Mr. Satterley, I think we now have a much 11:12:41 24 The golden egg is our equity. In the mind of 23 consumers, Johnson & Johns	12 THE COURT: Right. But so what I'm going to	12 For the Plaintiff via videotape)
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1 MR. SATTERLEY: Yes, Your Honor. That's	1 room.
2 Christian Koffmann. He was the former worldwide	2 Yeah. Go ahead.
3 chairman of the Johnson & Johnson consumer and personal	3 MR. SATTERLEY: I was going to say it's marked
4 care group, and an officer of the company.	4 as Exhibit 7707, for the record. So Ms. Langley has
5 THE COURT: All right. Now, the other problem 11:16:02	5 the video with an exhibit number. 11:20:39
6 is that Juror Number 14 does not appear to be here.	6 And did Your Honor want to go ahead and bring
7 I'm not sure that I have the alternates in the	7 Dr. Egilman back in now?
8 correct order here.	8 THE COURT: I think that's what we should do.
9 So does someone have the name of Juror 14?	9 MR. SATTERLEY: Okay. Super. I think he's in
THE CLERK: Your Honor, it's Angelica Moore. 11:16:31	10 the waiting room. 11:20:50
11 THE COURT: All right.	11 THE COURT: All right.
12 Is she logged in at the moment? Do we know?	12 DAVID STEVEN EGILMAN, M.D., MPH
13 THE CLERK: We're actually trying to get ahold	13 (For the Plaintiff)
14 of her right now, Your Honor.	previously sworn, testified as follows:
15 THE COURT: Okay. All right. 11:16:50	MR. SATTERLEY: I see Dr. Egilman now, Your 11:21:19
THE COURT ATTENDANT: She didn't answer.	16 Honor, although I don't see I don't know if he's
17 THE COURT: Let's hold on for a second.	17 pinned as the or exactly how
18 All right. I see a box for Ms. Moore.	18 THE WITNESS: I'm here. Can you hear me?
Ms. Moore, are you here? You're muted also.	MR. SATTERLEY: I can hear you. There you are.
20 And we can't see you. 11:18:15	20 THE COURT: Yes. All right. 11:21:32
21 All right. I got the message from Mr. Knox,	Okay. Mr. Satterley, go ahead.
22 but I see a box for her in the screen, so she's logged	22 DIRECT EXAMINATION BY MR. SATTERLEY:
23 in.	23 Q. Dr. Egilman, can you hear me okay?
24 THE CLERK: We also sent her an email, Your	24 Dr. Egilman
25 Honor, so we're waiting for a reply back, hopefully. 11:19:07 Page 3167	25 A. I can hear you. 11:21:47 Page 3169
rage 5107	Fage 3109
1 THE COURT: All right. Let's wait a couple	1 Q can you hear me?
2 more minutes.	2 A. Can you hear me?
3 Ms. Moore, are you there?	3 Q. I can hear you.
4 JUROR NO. 14: I'm here. I'm sorry.	4 A. It's a miracle.
5 THE COURT: All right. Were you with us or you 11:19:30	5 Q. I'm so sorry. 11:21:52
6 were not?	6 A. The candle stayed lit for eight days. It's a
7 JUROR NO. 14: I just got back. I'm sorry.	7 miracle.
8 THE COURT: We didn't notice you were gone.	8 Q. Okay. So let's see if we can proceed. And I
9 Okay. So I think what we should do now is go	9 just want to go back and ask you a couple of questions
10 to Dr. Egilman, and then the attorneys can talk in the 11:19:47	10 I had asked you about yesterday. 11:22:07
11 breakout room about whether this can be remedied. I	First, you told us you're a medical doctor.
12 have a thought. But why don't we go to Dr. Egilman now	12 Where did you go to medical school again?
13 since the other jurors have been waiting.	13 A. Brown University in Providence, Rhode Island.
JUROR NO. 14: Sorry. I apologize, Your Honor.	14 Q. And what year did you graduate from medical
15 THE COURT: Well, I mean, the problem is 11:20:05	15 school? 11:22:17
16 anyway. It is what it is, so here we are.  17 Mr. Satterley.	<ul><li>16 A. 1974.</li><li>17 Q. And with regards to your courses, I asked some</li></ul>
<ul><li>Mr. Satterley.</li><li>MR. SATTERLEY: Is my volume on there?</li></ul>	18 things about
18 MR. SATTERLET: IS my volume on there?  19 THE COURT: It is.	19 MR. DUBIN: I don't know if anybody can hear
20 MR. SATTERLEY: Okay. I got bounced off the 11:20:16	20 me, but it looks like everybody 11:22:27
21 screen, so I didn't know if I was even on the screen.	21 THE COURT: I'm sorry, Mr. Dubin, yes?
22 There I am. There I am.	22 MR. SATTERLEY: Hello?
23 So, Your Honor, I forgot to say the video	23 MR. DUBIN: Hello?
24 and we can talk about the issue	24 THE COURT: Yes? Mr. Dubin, are you there?
25 THE COURT: Why don't we do it in the breakout 11:20:30	25 MR. DUBIN: I'm here now. Yeah. 11:22:4
Page 3168	Page 3170

## Case £ 1330 2825 WBLK DiDo £ 3483 FHidd 0 951/0 A222 Elettered £ 0 951/0 A220 88369220 DiDesc Exhibitive £ 26116 to bette \$150 action at 10 ART \$250 actio

1 Have you also published in the peer-reviewed	1 beryllium. The most of the things that made workers
2 literature on warnings?	2 sick are minerals.
3 A. Yes.	3 Q. In addition to publishing on these topics, have
4 Q. And with regards to your work in public health,	4 you stayed abreast on the scientific literature of
5 you talked earlier about geology. 12:00:40	5 asbestos, talc, and the geology that we've been talking 12:03:42
6 Has it been important for you to study the	6 about?
7 geologic literature which relates to asbestos in talc?	7 A. Yes. Yes.
8 A. Yes.	8 MR. SATTERLEY: Your Honor, at this time, I'll
9 Q. And have you done so?	9 offer Dr. Egilman as an expert in occupational
10 A. Yes. I have taken two taken two online 12:00:53	10 preventive medicine, epidemiology, industrial hygiene, 12:03:51
11 courses on geology, and plus I've done lots of reading,	11 warnings, the history of medical science regarding
12 lots of visiting of mines, lots of discussion with mine	12 asbestos knowledge, and the geology of talc and
13 owners, with mine managers, et cetera, over the years.	13 asbestos.
14 Q. And even before talc-specific issues, did you	14 MR. DUBIN: Your Honor, we would only object to
15 study geology as relates to asbestos and the presence 12:01:16	15 the last portion to the extent Dr. Egilman has no 12:04:06
16 of asbestos minerals in the earth?	16 degree in geology, and has no degree in mineralogy. Do
17 A. Yes. And they're related, because the chain of	17 not believe he's qualified to testify in that regard.
18 mountains that comes from Quebec all the way to	18 But we could address this in a breakout room.
19 Georgia, there are along that chain, the Appalachian 20 chain, there are asbestos mines and talc mines. 12:01:35	·
21 Sometimes quite close to each other.	21 cross-examination.
So the geology of the Appalachian trial	22 THE COURT: All right. So with that
23 promotes both asbestos growth and talc and accessory	23 reservation, he's qualified.
24 minerals, accessory asbestos minerals.	24 I think we should take a break.
25 Q. And within the field of preventative medicine, 12:01:57 Page 3199	25 MR. SATTERLEY: Okay. 12:04:31 Page 3201
	- 1.6
1 to which you're board certified, is there a discussion	1 THE COURT: Seems like a good moment.
2 of what's called "medical geology"?	2 MR. SATTERLEY: It's after 12:00, so I thought
3 A. Yes.	3 it would be good place.
4 Q. And why is that important, medical geology,	4 THE COURT: So let's take a 15-minute break.
5 within the field of preventive medicine? 12:02:10	5 It's about 12:05. We'll come back at 20:20, and we'll 12:04:40
6 A. Well, the medical geology part looks at how	6 go to 1:15.
7 geologic substances cause disease.	7 Thank you very much, ladies and gentlemen.
8 And from a historical perspective, most worker	8 Remember, don't do any reading, don't do any research,
9 diseases, say, 80 or 90 percent of the published	9 don't reach any conclusions. We are just getting
10 papers, until the '50s, were on dust diseases, 12:02:29	10 started. 12:04:52
11 therefore, minerals.	Could the attorneys and Ms. Langley come in the
So the main one was silicosis because silica	12 breakout room for just a second before we break.
13 was is sand, but it was used in metal manufacturing.	13 MR. SATTERLEY: And may Dr. Egilman turn off
14 All the molds were made from sand since from the	14 his camera and take a break as well?
15 railroad on, we've been using a lot of sand molds, and 12:02:46	THE COURT: Yes. Dr. Egilman, you should take 12:05:07
16 a lot of workers got sick from those molds molds.	16 a break, too, and we will see you in 15 minutes.
And in addition, in the '30s, there was a huge	17 MR. SATTERLEY: Thank you.
18 problem in Gauley Bridge, in West Virginia, where about	18 (The following proceedings were held in the
19 1500 miners got sick from silica exposure because they	19 virtual breakout room with counsel only outside the
20 were drilling pure silica in that mine. It wasn't even 12:03:08	20 presence of the jury:) 12:05:33
21 a mine, it was a tunnel for power. And they were using	21 THE COURT: We're in a breakout room outside
22 it. They would then sell the product.	22 the presence of the jury. Ms. Moore did not come back.
23 And they got sick within nine months. And	23 However, to me, this is easily remedied. We could show
24 usually it takes 20, 30, 40 years to get silicosis.	24 her that video. And that's all that happened while she
25 So that, and then asbestos, and other minerals, 12:03:24	25 was gone. 12:05:46
	14.7 was 2016. 12:00:40
Page 3200	Page 3202

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1 MR. SATTERLEY: And give her the instruction,	1 THE COURT: What did I say? 12:20.
2 Your Honor. I also gave the instruction the J&J	2 MR. SATTERLEY: Oh, 12:20. Okay. See you in a
3 the instruction with regards to Blount. I think the	3 little but.
4 two things that happened	4 THE COURT: 12:20. Thank you.
5 THE COURT: Okay. That's right. 12:05:53	5 (Recess taken.) 12:07:49
6 MR. SATTERLEY: the instruction and that	6 (The following proceedings were held in the
7 was going to be my suggestion, is we bring her into the	7 virtual main room in the presence of the jury:)
8 breakout room at some point, give her that instruction,	8 THE COURT: I'm going to make sure everyone is
9 show her the video. Because I don't want I know we	9 here. 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14,
10 don't need to reshow the video to everybody else. 12:06:04	10 15, 16. We're all here. 12:21:45
11 THE COURT: Right. So should we just do that	11 All right. And, Ms. Moore, at the end, I think
12 at 1:15?	12 what I'm going to do is we have an easy way to repeat
13 Mr. Dubin, what's your position?	13 what you missed. So, if you could, after we're
14 MR. DUBIN: I suppose so, Your Honor.	14 finished here, stay for a moment or two, we can take
15 THE COURT: All right. Luckily luckily that 12:06:15	15 care of that. 12:22:04
16 one's easy.	16 JUROR NO. 14: Okay, Your Honor.
17 Okay. Let's take a break.	17 THE COURT: All right. I don't know why
18 MR. SATTERLEY: Well, can I respond, Your	18 Ms. Moore's there you are. Now you're in order.
19 Honor, very briefly to Mr. Dubin's objection	19 Okay. Excellent.
20 THE COURT: Oh, okay. 12:06:22	20 JUROR NO. 14: I'll stay. Thank you, Your 12:22:20
21 MR. SATTERLEY: speaking objection in front	21 Honor.
22 of the jury about the qualifications.	22 THE COURT: Thank you.
23 Under California law, he said you have to have	23 We've got everybody in numerical order on my
24 a degree, and he doesn't have to have a degree. And	24 screen, which is great.
25 that's not the law at all. He has specialized 12:06:33	25 All right. Mr. Satterley. 12:22:27
Page 3203	Page 3205
1 knowledge in these areas, all of these areas, including	1 And we'll go to 1:15.
2 geology. To the extent he doesn't have a degree, he	2 MR. SATTERLEY: Yes, Your Honor. Thank you so
3 can be cross-examined on it. It goes to the issue of	3 much.
4 weight.	4 And good afternoon, everyone.
5 MR. DUBIN: Your Honor, I sort of disagree that 12:06:44	5 I'm going to go back to the Roadmap just 12:22:36
6 you can just watch two online courses and, therefore,	6 briefly.
7 you have the expert credentials to talk about, "Oh,	7 BY MR. SATTERLEY:
8 here's the geology of the East Coast, and here's how	8 Q. So we talked a lot about you and your
9 these tectonic things fit together."	9 qualifications.
I don't agree with Mr. Satterley that just 12:07:00	MR. SATTERLEY: Oh, by the way, Your Honor, I 12:22:42
11 because somebody says they have knowledge that they've	11 want to reoffer Dr. Egilman as an experts in the areas
12 learned about something, that they're adequately, you	12 that I so offered.
13 know, qualified to be an expert on the topic under	13 THE COURT: He's accepted as an expert,
14 California law.	14 obviously, subject to cross-examination.
15 So I disagree. 12:07:10	15 MR. SATTERLEY: Thank you. 12:22:51
THE COURT: Well, it may or may not be true.	16 BY MR. SATTERLEY:
17 You can cross-examine. It seems to me that, given all	17 Q. So the Roadmap of testimony. Next we're going
18 the associated fields that he has knowledge of, that he	18 to talk about asbestos and general medical causation.
19 has knowledge above what the normal person has. And	19 Okay. Let's do that.
20 you have your own experts, so he's qualified. 12:07:30	20 Dr. Egilman, can you tell us specifically what 12:23:07
21 MR. DUBIN: All right.	21 is asbestos?
MR. SATTERLEY: We take a break until 12:15	22 A. Okay. Well, asbestos is a poison. And a
23 or	23 poison made out of a rock in a long, thin form shape
24 THE COURT: Yes. 12	24 called a fiber.
25 MR. SATTERLEY: 12:20? 12:07:40	25 So it harms people because of the fact that 12:23:26
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1 it's chemically indestructible, for the most part,	1 contains fibers, long they're long and thin.
2 because it's a rock, and because it's long and thin,	2 They're at least they're between three and five
3 and can get into human cells and cause those cells to	3 times, at a minimum, longer than they are wide.
4 become cancerous or irritate cells and have them become	4 Okay. So the length has to be a minimum of 5
5 scarring. So it causes two kinds of diseases: Cancer 12:23:53	5 microns for it to be counted. 12:26:25
6 and scarring diseases.	6 Now, if it's shorter than that, it's still
7 Q. And we'll talk about that in a little bit.	7 asbestos, it's just not counted and regulated as
8 What is the definition of asbestos?	8 asbestos.
9 A. Well, the definition the original the	9 And then it has to be in terms of width, the
10 definition changed over time. The original definition 12:24:12	10 ratio has to be either 3 to 1 or 5 to 1, depending on 12:26:35
11 was a fiber that was longer than 5 microns. And a	11 which agency.
12 micron there are about a million microns in a yard.	So if it's OSHA, it's this one. EPA, it's this
13 So it has to be longer than 5, of what would be about	13 one.
14 1.25 million of 5-micron long things in a yard.	14 Q. I'm sorry. On the length of the fiber, did you
15 And it also has to be longer than it is wide. 12:24:37	15 say .5 microns or 5 microns? 12:26:53
16 So let me just can I	16 A. 5 microns.
17 Q. You have some demonstratives that we've given	17 Q. Are there
18 to J&J counsel. Do you have a demonstrative?	18 A. Again, as I said, there's a million 1
19 A. I can draw this one. I think it would be	19 million microns in a yardstick, 3 feet. So these are
20 better. 12:24:54	20 very small. 12:27:14
21 Q. Okay. Is your	21 Q. Do the regulations also regulate down to
22 A. Actually, I do have one. I have a okay.	22 .5 microns in length?
23 I've got a picture here on the Elmo here.	23 A. If it's if it's EPA, and it's the AHERA
Q. And does it have an ID number on it?	24 method of measurement that's A-H-E-R-A, which is a
25 A. It's got ID Number 2. 12:25:05 Page 3207	25 specific method using transmission electron 12:27:30 Page 3209
1 (Whereupon, Plaintiff's Exhibit ID2 was marked	1 microscopes then the EPA says you count things that
2 for identification.)	2 are .5 microns.
3 BY MR. SATTERLEY:	3 If it's OSHA, you only count it if it's
4 Q. ID Number 2.	4 5 microns.
5 By the way, you've seen bags of asbestos in the 12:25:10	5 And this kind of funny looking U stands for 12:27:47
6 past?	6 micron. That's a Greek letter for micron, I guess.
7 A. Yes.	7 Q. So let me ask you a couple of questions about
8 Q. And does this ID2 fairly and accurately	8 this demonstrative. The bag that says "asbestos" in
9 represent bags	9 it, if Johnson & Johnson didn't buy the bag that says
10 A. Yes. 12:25:19	10 "asbestos," does that mean Johnson & Johnson never had 12:28:06
11 Q. Well, you've got it upside down.	11 asbestos in their product?
12 A. Well, when it's upside down or right side up,	12 A. No.
13 it's still a long, thin fiber.	13 Q. You said it was a commercial term. Do they
14 Q. Okay.	14 have within the commercial term, are there mineral
15 A. Doesn't change the characteristics of the fiber 12:25:28	15 descriptions of asbestos? 12:28:19
	_
16 in any way.  17 Q. The bag of asbestos and the ID	
	17 called asbestos in the regulations. Two of them are
18 A. So asbestos comes in bags. It's actually a	18 commercial terms. Okay?
19 commercial product. And so the word comes from	And let me get a graphic of those, if I can
20 people would sell it asbestos as different kinds of 12:25:40	20 show them. 12:28:44
21 chemicals that make up the rocks in the bag.	21 Q. Does it have an ID number on it?
22 But they all asbestos was originally a	22 A. It's ID Number 10.
23 term and it came out of an asbestos bag, okay, and	(Whereupon, Plaintiff's Exhibit ID10 was marked
24 it comes for from a Greek word for "unquenchable."	24 for identification.)
So and it's a product what's in here 12:26:03 Page 3208	25 BY MR. SATTERLEY: 12:28:48 Page 3210
rage 3208	rage 3210

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1 three to five times greater than width. Okay?	1 Q. So if the chemistry if the chemistry of this
2 So these are tremolite that grew as asbestos	2 particle or fiber is the same and the surface property
3 forms. And that's this I will make this line red so	3 is the same, the size and the shape is the same, can
4 it's easier. Right? And the other line, these grew or	4 the body tell the difference?
5 were crushed. 12:41:56	5 A. No. 12:44:35
6 And you can see that this whole area in here,	6 Q. Now, how does asbestos get inside the human
7 they overlap in terms of length-width ratio. So this	7 body?
8 is the percentage. But you can see large percentages	8 A. Okay. This is demonstrative Exhibit 5, I
9 of crushed overlap in terms of size. That is the	9 guess. Okay?
10 length-width ratio. 12:42:15	10 (Whereupon, Plaintiff's Exhibit ID5 was marked 12:44:55
11 Q. Before you get off let me ID13, put that	11 for identification.)
12 back up there, please, Dr. Egilman. I want to just ask	12 THE WITNESS: So asbestos gets in the air. You
13 you just so the record is clear. The jury has already	13 breathe it in. It goes into your pharynx, then into
14 seen these graphs. Does this come from the Dr. Blount	14 your trachea, then into your bronchus, and it gets
15 paper in 1991? 12:42:31	15 carried by airflow all the way towards the end of your 12:45:09
16 A. I think yes and no. I think she copied them	16 lung which have little grape-like sacs.
17 from Campbell. These are originally from Campbell.	So the end of your the end here looks like
18 I'm using Campbell's.	18 this, and then it will have a little tube. That's
19 Q. Okay. So Campbell had aspect ratios like this,	19 called the bronchial. And these sacs are where the
20 and then Blount also had aspect ratios to talk about 12:42:44	20 business of the lung gets done. These are called 12:45:41
21 the distinction?	21 alveoli.
22 A. That's right. And they both they both	22 And the asbestos gets all the way in, and it
23 show I think this one this one may be from	23 gets it's a fiber, it can get in and lodge in the
24 Blount.	24 alveolus. It's a little bit like a ship in a bottle
25 Q. Because it mentions 12:42:54	25 phenomenon. When you breathe the asbestos in, it tends 12:45:59
Page 3219	
1 A. But this one is from Campbell.	1 to cause the fibers to line up along with the
2 Q. Okay. Any other thing you want to point out	2 airstream, so the fibers can more easily get in.
3 about the aspect ratio, ID13?	3 And also, when you inhale, if you take a
4 A. Only that no matter how you define them, these	4 breath, you expand your lungs, and that expands the
5 are the same in large measure in terms of length and 12:43:10	5 tubes, and also, you get flow of air in. And so the 12:46:15
6 length-width ratio.	6 asbestos goes to these fibers here, will tend to wind
7 So it's to quote Groucho Marx, it's it's	7 up and straighten up, so they can get deep into the
8 "Who are you going to believe? Me, that is the	8 lung.
9 definition, or your lying eyes?" Because you can see	9 Now, when you exhale, now your lung tubes are
10 these, and they're the same length-width ratio. 12:43:33	10 getting a little bit smaller. All these tubes are 12:46:33
11 If I didn't tell you these over if I covered	11 getting a little bit smaller, and the asbestos can then
12 them up and say, "Okay, where are these from," and I	12 get in at an angle and can get stuck. It can get stuck
13 covered some of these up and said, "Where are these	13 either in these tubes, or it can get stuck in the
14 from," they look like they're coming from the same	14 alveolus.
15 place because they are identical. 12:43:49	15 Now, actually, 95 percent of what gets inhaled 12:46:46
And the surface properties, which is even more	16 gets exhaled; 5 percent stays in the lung, and some of
17 important from a health perspective, are also the same.	- · · · · · · · · · · · · · · · · · · ·
	17 that then goes to the rest of the body. And that
18 So in other words	17 that then goes to the rest of the body. And that 18 happens by
<ul><li>18 So in other words</li><li>19 Q. Wait a second. What are you talking about,</li></ul>	
19 Q. Wait a second. What are you talking about,	18 happens by 19 Let me just draw this. I've got these sheets
<ul><li>Q. Wait a second. What are you talking about,</li><li>"surface properties"? What's that? 12:43:59</li></ul>	18 happens by  19 Let me just draw this. I've got these sheets  20 you gave me. Do you want me to use that for the  12:47:14
<ul> <li>Q. Wait a second. What are you talking about,</li> <li>"surface properties"? What's that? 12:43:59</li> <li>A. That's what's on the surface of the fiber,</li> </ul>	18 happens by  19 Let me just draw this. I've got these sheets  20 you gave me. Do you want me to use that for the  12:47:14
<ul> <li>Q. Wait a second. What are you talking about,</li> <li>"surface properties"? What's that? 12:43:59</li> <li>A. That's what's on the surface of the fiber,</li> <li>there will be a certain charge, and those the</li> </ul>	18 happens by  19 Let me just draw this. I've got these sheets  20 you gave me. Do you want me to use that for the  21 Q. If you're going to draw, we don't need to go to  22 the board today. I think we got it figured out. So
<ul> <li>Q. Wait a second. What are you talking about,</li> <li>"surface properties"? What's that? 12:43:59</li> <li>A. That's what's on the surface of the fiber,</li> </ul>	18 happens by  19 Let me just draw this. I've got these sheets  20 you gave me. Do you want me to use that for the  21 Q. If you're going to draw, we don't need to go to  22 the board today. I think we got it figured out. So  23 you can draw it.
19 Q. Wait a second. What are you talking about, 20 "surface properties"? What's that? 12:43:59 21 A. That's what's on the surface of the fiber, 22 there will be a certain charge, and those the 23 charge and there will be a certain roughness,	18 happens by  19 Let me just draw this. I've got these sheets  20 you gave me. Do you want me to use that for the  21 Q. If you're going to draw, we don't need to go to  22 the board today. I think we got it figured out. So  23 you can draw it.

## Case £ 1330 2825 WBLK DiDo £ 3483 FHield 0 951/0 A222 Elliteter d 0 951/0 A220 88369220 DiDesc Exhibitive A26115: the Dattle Sketly ellie glade and til DAR Plage Plage of 347 of 225

1 MR. SATTERLEY: Yes, I think so. ID 5,	1 So some of it lands in the lining of the lung,
2 breathing in the asbestos fibers.	2 okay, which is called mes it originally comes from
3 BY MR. SATTERLEY:	3 mesodermal tissue. It's called the pleura.
4 Q. We may come back to that later. But you were	4 Q. On your on the left-hand side, it says
5 going to talk about how the 12:47:31	5 "pleural membrane." 12:51:03
6 A. I was going to draw again these are the ones	6 Is that the pleural space?
7 with my picture you sent me.	7 A. Well, this is pleural membrane in the abdomen.
8 Q. And you were going to draw how the fibers	8 This is pleural there's pleural membrane in both
9 A. Correct.	9 places, so yes. There's lining of the lung, and
10 Q translocate in the body? 12:47:42	10 there's lining of the belly. In the lung, there's two 12:51:20
11 A. Yes.	11 linings, one around the lung and one on the inside of
12 Q. Okay.	12 the chest wall, and it's about the thickness of
13 A. "Translocate" means go from one place to the	13 cellophane.
14 next.	14 And because you got to move your lungs, it's
15 So we're back here in the alveoli. You've got 12:47:48	15 lubricated so that your lungs are not stiff. So 12:51:36
16 an asbestos fibers or lots of fibers in here.	16 there's a little bit of fluid between the membrane
17 Then in this space okay. There's blood	17 around the lung, which is called the visceral pleura,
18 cells with oxygen, getting oxygen, and it turns red.	18 viscera being a word for organ. So the cellophane
19 So this blood actually will come into the lung looking	19 around the lung is one part that doesn't quite rub
20 blue, and then it will turn red as it picks up oxygen. 12:48:18	20 against the cellophane that's on the chest wall. 12:51:56
21 The oxygen goes from the inside of the alveoli,	21 There's a little fluid in there.
22 okay, through the alveoli and gets picked up in this	22 But the asbestos gets carried in there from the
23 depleted blood, and it gets carried away and goes to	23 veins, through the heart, and into the bloodstream, and
24 the heart.	24 then ends up some of it gets stuck in that space;
Now, at the same time, there's veins also in 12:48:41	25 some of it gets stuck in the lung spaces, although some 12:52:13
Page 3223	Page 3225
1 here, and those veins release carbon dioxide into the	1 of it gets directly stuck in the lung spaces from
2 lung, and you exhale the carbon dioxide.	2 breathing; and then some of it gets into the omentum or
3 So that's where all the business of the lung	3 the peritoneal membrane in the gut.
4 gets done.	4 Q. If you can move the exhibit up. Part of the
5 Now, some of these fibers the third thing 12:49:05	5 exhibit is off the screen. 12:52:34
6 that's in here, in this space, are lymphatics, lymph	6 A. Sorry.
7 tissue. Like in your lymph nodes when you get a cold,	7 Q. Go ahead.
8 those are all connected back, and some of those some	8 A. This is Exhibit 5. Still Exhibit 5.
9 of that actually is in the lung. So this is lymph	9 Some of it gets stuck in the gut. So that's
10 tissue, and it's actually tubes, just like the blood 12:49:28	10 how asbestos gets around. 12:52:47
11 vessels.	11 Q. You mentioned earlier that asbestos causes two
What happens, how the asbestos gets around is,	12 different types of diseases, malignant diseases and
13 some of the asbestos gets into the lymph tissue, and	13 nonmalignant disease.
14 then it will get carried from the lymph tissue into	14 Talk to us about that.
15 lymph nodes. 12:49:49	15 A. Okay. So causes cancer, various cancers, but 12:52:58
16 And the lymph nodes eventually drain into the	16 the main two cancers are lung cancer and then cancer of
17 inferior vena cava. Okay? So the lymph, with the	17 the pleura or peritoneal membranes, the cellophane
18 asbestos in it, gets carried from the lung, and it	18 around the lung and the cellophane around the belly.
19 eventually drains into the inferior vena cava, which is	19 So those are the main two cancers asbestos causes. It
20 a large vein going into the blood that goes into the 12:50:25	20 causes cancer in the testes as well and other places. 12:53:36
21 heart.	21 Q. Are there mesothelial linings of the testes?
First it goes into the bloodstream, and then it	22 A. Yes.
23 gets carried into the heart. And from the heart, that	23 Q. Is there mesothelial lining of the heart?
24 blood gets spread out with whatever is in it to the	24 A. Yes.
25 rest of the body. 12:50:45  Page 3224	25 Q. And is that called a pericardial mesothelioma 12:53:47
Page 3224	Page 3226

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1	when it occurs in that part of the body?	1	And what that is, is asbestos covered with
2	A. Yes. Although some people think it's really	2	dead dead tissues and iron. Then iron which is
3	pleural, but yes.	3	lots of iron in the body because that's what your blood
4	So those those tissues have something in	4	is, iron. And so it gets this gets to be
5	common that goes way back. 12:54:04	5	iron-filled. 12:58:21
6	So when we first when people first	6	And you can see these sometimes on a
7	developed when sperm and egg meet, there's a bunch	7	microscope. I think we have some pictures of them.
8	of cells which eventually become three kinds of cells,	8	Q. Before you leave that, Dr. Egilman, what are
9	ectoderm, endoderm, that's in the middle. These become	9	pleural plaques?
10	your organs, your liver, spleen, et cetera, lung. 12:54:38	10	A. Pleural plaques would be scarring in the lining 12:58:37
11	Ectoderm becomes your skin.	11	of the pleura or the diaphragm.
12	The mesoderm, which is in the middle, mesoderm,	12	(Whereupon, Plaintiff's Exhibit ID15 was marked
13	that forms the peritoneal pleura and the pleura,	13	for identification.)
14	peritoneal and pleura, and also the gonads. So this	14	THE WITNESS: So it's the same thing. The
15	causes the gonads come from here, and the lining of 12:55:14	15	difference is this scarring is in a different location, 12:58:46
16	the gonads. That's why you can get mesotheliomas in	16	so the asbestos, to get here, would have had to have
17	the test in the lining of the testicle.	17	taken that circuitous route through the veins, through
18	Okay. This one, we didn't mark. Do you want	18	the lymphatics, the veins, et cetera, whereas the
19	me to give this a number?	19	asbestos in the lung can get there directly by
20	MR. SATTERLEY: Why don't we do ID let's see 12:55:34	20	inhaling. 12:59:03
21	what number we're up to. ID14.	21	Now, this scarring you got one or two
22	(Whereupon, Plaintiff's Exhibit ID14 was marked	22	scars let's think about your elbow. Let's say you
23	for identification.)	23	had your elbow, and you got a couple of scars on your
24	THE WITNESS: Okay.		elbow. You could still move your elbow, no problem.
25	BY MR. SATTERLEY: 12:55:46	25	Okay. 12:59:17
	D 2227		D 2220
L	Page 3227		Page 3229
1	Page 3227  Q. And you talked about the cancer the diseases	1	Page 3229  When you when you get lots of scars on your
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<ul> <li>1 you know, were sometimes as little as a day.</li> <li>2 So it's even more true, which is not enough to</li> </ul>	1 for identification.) 2 THE WITNESS: Yeah.
3 get scarring in the lung, as I explained, so but it	3 BY MR. SATTERLEY:
4 is enough to cause lung cancer in some people.	4 Q. If we could put that up there.
5 Q. Is there any literature, any acceptable 13:00:45	5 I've got that marked as 6. 13:03:46
6 literature, generally acceptable literature that says	6 A. Okay. How about you want 8?
7 you got to have two different asbestos diseases to say	7 Q. Okay. That's 8. We'll call that 8 then.
8 one of them is related to asbestos?	8 All right. And is this a representation of the
9 A. No.	9 visceral and parietal pleura that you were talking
10 Q. If someone were to come into this courtroom and 13:00:59	10 about earlier? 13:04:07
11 say, "You've got to have pleural plaques," or "You've	11 A. Yes. So that's the this is the lung. And
12 got to have asbestosis to say mesothelioma is related	12 the pleura around the lung is the visceral pleura. And
13 to asbestos," in your opinion, Doctor, is that true?	13 the pleura around the chest wall so the ribs would
14 A. That is not correct.	14 be here would be the parietal pleura. And this is a
15 Q. Now, how long does it take for asbestos to 13:01:13	15 space with a little bit of fluid in it. And this is 13:04:25
16 cause the various asbestos-related diseases?	16 about the thickness of cellophane.
17 A. Well, to some extent it depends how how old	17 Q. And you have on the right-hand side, "The
18 you were when you first got exposed. So the younger	18 asbestos is jagged, extremely tiny, 500 times finer
19 you are, the shorter it takes. But for the most part,	19 than hair"?
20 it takes, at a minimum, ten years. But for most 13:01:35	20 A. Right. 13:04:41
21 people, at least 15 years. And you can get	21 Q. Is that accurate?
22 mesothelioma as long as 50 or 60 years after exposure.	22 A. Yes.
23 That period of time from first exposure to	23 Q. Now, you have also a demonstrative ID I
24 so from first exposure to first symptoms of disease,	24 think it's ID9, peritoneal mesothelioma?
25 this is called the latency time. Latent period. So it 13:01:59	25 A. I got that as 6. We can flip the 6 and make it 13:05:05
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1 means it's quiet.	1 a 9.
2 During at least some of that time okay. At	2 Q. Okay. Sorry about that. Why don't we mark
3 least some of that time the cancer is growing, but you	3 that as ID9.
4 don't know it. Because from the first cell division	4 A. Okay. Well, that was an easy one. No
5 where cancer is formed, until you actually have even a 13:02:29	5 cross-out needed. 13:05:18
6 one-centimeter sized round cancer, is at least, in	6 (Whereupon, Plaintiff's Exhibit ID9 was marked
7 most is in most people, 20 years, 25 years. Then it	7 for identification.)
8 goes much then the doubling time causes it to grow	8 BY MR. SATTERLEY:
9 fast in terms of size.	9 Q. Okay. Explain this graphic and what this
10 Q. In Ms. Prudencio's case, you've evaluated her 13:02:49	10 represents. 13:05:25
11 case, her medical records, and reviewed her testimony?	11 A. Well, this is the abdomen. This is the liver.
12 A. Yes.	12 This would be the spleen would be over here. The
13 Q. And latent the latency period in her	13 thin layer that covers all the organs in the abdomen,
14 situation her being born in 1986, and having the	14 which is this is the large intestine, the colon,
15 disease when she's on her 34th birthday, is that an 13:03:05	15 small intestine, the gonads down here, and then spleen 13:05:43
16 appropriate latency period for the asbestos exposure	16 over here.
17 beginning as a baby, up until the time that she was	17 So that there's a thin cellophane-like covering
18 diagnosed?	18 which is called the peritoneal the peritoneal
19 A. Well, it would it would be a relatively	19 membrane, and that's also where asbestos can cause
20 typical latent period, well within the range of when 13:03:21	20 cancer. This would be an outcropping of cancer there. 13:06:04
21 most asbestos cancers occur.	21 Q. Do you have an opinion whether asbestos causes
22 Q. The you have a couple of other 23 demonstratives I want to show the jury.	22 peritoneal mesothelioma? 23 A. Yes.
23 demonstratives I want to snow the jury. 24 Can you show ID7 (sic).	23 A. Yes. 24 Q. If someone had exposure to asbestos and
	1
25 (Whereupon, Plaintiff's Exhibit ID8 was marked 13:03:38 Page 3232	25 developed as a young person, as a child, and 30 13:06:22  Page 3234
	3

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1 25, 30, 32 years later develops mesothelioma, would	1 damage within the body?
2 that, in your opinion, be related to asbestos exposure?	2 A. The inflammation, no, not per se. The asbestos
3 A. Yes. If they had exposure as a child and got	3 causes the mutation.
4 cancer 30 or 35 years later, that would be consistent	4 Q. Okay. The asbestos causes the DNA damage in
5 with the pattern you'd see with asbestos. 13:06:44	5 the body? 13:10:16
6 Q. Are you aware of any scientific literature that	6 A. Correct.
7 says if you develop peritoneal mesothelioma and you	7 Q. All those fiber types the asbestos fiber
8 have asbestos exposure for many years in your life,	8 types that you told us about earlier, can all those
9 that it's appropriate to call that disease spontaneous?	9 fiber types cause malignant mesothelioma?
10 A. No. Spontaneous means you don't it occurs 13:07:06	10 A. Yes. 13:10:22
11 for unknown reason. If you have a reason, then that's	11 Q. Is there any such thing, with regards to
12 the cause. And if someone is exposed to asbestos and	12 cancer, as a safe asbestos?
13 they get one of the signature asbestos diseases, of	13 A. No.
14 which peritoneal meso and pleural mesothelioma are two,	14 Q. And have you studied specifically studied
15 then you would say, more likely than not, that's the 13:07:30	15 and published upon the various fiber types and their 13:10:34
16 exposure that caused those to occur. Idiopathic means	16 ability to cause cancer?
17 unknown cause. It doesn't mean spontaneous.	17 A. Yes.
18 Q. Earlier, you were talking about in your	18 Q. And can all those fiber types cause the disease
19 study of molecular biology, you started to explain how	19 malignant peritoneal mesothelioma?
20 asbestos fibers can cause cells to become cancer. 13:07:49	20 A. Yes. 13:10:48
21 What is cytokines?	21 Q. Now, in this case, have you reviewed the
22 A. In this inflammatory process that I talked	22 Johnson & Johnson historical documents?
23 about before, if you can find it again. This scarring,	23 A. Yes.
24 in this process where the asbestos let me see if I	24 Q. And have you reviewed historical literature on
25 can find the other one, graphic here. 13:08:13	
Page 3235	25 asbestos and asbestos in talc? 13:11:01 Page 3237
1 Well, I'll just go with this.	1 A. Yes.
When this scarring process goes on, there's a	2 Q. And based upon your review of Johnson &
3 release of cytokines, which are proteins. So when that	3 Johnson's historical documents and the testing we'll
4 macrophage first comes out and says to the rest of the	4 talk more about this on Monday have you formed an
5 body, I can't eat this asbestos fiber, it lets the 13:08:38	
5 body, 1 can't car this assessos fisci, it less the	5 opinion whether asbestos has been documented in 13:11:13
6 messaging the messenger system is cytokines.	5 opinion whether asbestos has been documented in 13:11:13 6 Johnson & Johnson Baby Powder?
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1 general causation issues? 2 A. I don't think so. Unless you have questions. 3 Q. If you could turn off your screen share, then. 4 A. Okay. 5 Q. Ive just got a couple more minutes of 13:12:20 6 questions before we break for the day. 7 Does everybody exposed to a carcinogen have the 8 same likelihood of getting cancer? 9 A. No. 10 Q. And why is that? 13:12:29 11 A. Well, in part, generally speaking, asbestos is 12 a dose-response disease. And by that I mean the— 13 there was kind of a fundamental study done about cancer 14 and dose response called the megamouse study by the EPA 15 around 1980. And what they did—I should—I may 13:12:57 16 have a demonstrative on this. I lost my mice. 17 Q. You got the megamouse book? 18 A. What? 19 Q. You got the megamouse book? 20 A. I got the book, but that's not the picture. 21 Fill draw it out. Okay. 22 So this explains, I think, in large part why 23 certain people do and don't get cancer. So what they 24 did was they started with, say, about 30 mice— 25 Q. If you're drawing, you're not screen sharing, a group, they might have gotten, say, eight cancers. In  1 increase in that large amount of people, by day a gon to ead a lot of people if you have a small 3 amount to get a cancer increase. 4 And that cancer increase will not be a lot of 5 cancers. It will just be relatively few cancers that 13:15:47 6 are increased in maybe millions of people. 7 And so the idea is that — why the other mice 8 don't get cancer — because these are genetically 9 identical — we don't know. Okay? In human beings, 10 it's even more complicated. 11 Q. Last question — Dr. Egilman, last question for 12 the day. 13 Is there a safe level of exposure to asbestos, 14 in your opinion? 15 A. No. I3:16:16 16 MR. SATITERLEY: And well pick up on that on 17 Monday morning, Your Honor. 18 THE COURT: Right. I agree. 19 Ladies and gentlemen, it's been a long week, 20 but we've gotten a lot done, actually, through some I3:16:29 11 have anything to do with this case. Don't do any 2 research; don't ask anybody anythi
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7 group, they might have gotten, say, eight cancers. In 7 because you haven't heard all the evidence, and you
8 this group, they got no cancers.  8 haven't heard the jury instructions. So that's a ways
9 Then what they did was they went to 60 mice. 9 from now. So take it in, and then we'll add it all
10 60 mice. Instead of 100 pounds, they used 50 pounds. 13:14:24 10 together at the end. 13:17:16
11 Okay. And, again, zero here. Here, then they got,  11 So thank you very much.
12 say, 4 cancers. No cancers.  12 Ms. Moore, if you could stay, I would
13 They went up to 30,000 mice. So I'm going to 13 appreciate it. The rest of you are excused, and we'll 14 this the first at the court 20, 20,000 house are secured.
14 skip the first the next 29 29,000, however many 14 see you Monday morning at 8:45 for check-in.
15 it is. And they kept dividing, dividing, dividing the 13:14:52 15 Thank you very much. 13:17:29
16 amount they gave those mice. But so they might have  16 And Mr. Shia, we'll need to figure out if there
17 gotten down to, say, .001 pounds.  18 Now, they gill had gross corrects but in this.
18 Now, they still had excess cancers, but in this 18 this afternoon or over the weekend. 10 case they may have only had out of 20 000 mice.
19 case, they may have only had, out of 30,000 mice,  19 All right. So could we go into a breakout  20 4 capacity. But none in this group. These numbers are: 12:15:14.
20 4 cancers. But none in this group. These numbers are 13:15:14 20 room, along with Ms. Moore. 13:17:50
21 not real numbers. I'm just making them. 21 And then Mr. Satterley, are you prepared to
Q. What's the end result of the mega mouse study?  22 play that video?  23 MP SATTERIEV. I believe we are
23 A. The end result, if you expose if you 24 decrease the amount of a cancer-causing agent, but 25 MR. SATTERLEY: I believe we are. 26 Mr. Rivamonte Kevin, are you there?
25 expose more and more people, you'll still get a cancer 13:15:32 25 THE TECHNICIAN: Yes, I'm here. 13:18:04 Page

## Case £ 1330 2825 WBLK DiDo £ 3483 FHield 0 951/0 A222 Elettered 0 951/0 A220 88369220 DiDesc Exhibitive A26115 to Battle Sketyelley | Direction at 10 ART Page Plage 0139 10 f 225

1	STATE OF CALIFORNIA )	
2	) ss.	
3	COUNTY OF ALAMEDA )	
4		
5	I, EARLY K. LANGLEY, do hereby certify:	
6	That foregoing proceedings were held in the	
7	above-entitled action at the time via Zoom and via Zoom	
	audio at the place therein specified;	
9	That said proceedings were taken before me via	
	Zoom and via Zoom audio at said time, and was taken	
	down in shorthand by me, a Certified Shorthand Reporter	
	of the State of California, and was thereafter	
	transcribed into typewriting, and that the foregoing	
	transcript constitutes a full, true and correct report	
	of said proceedings that took place;	
16	IN WITNESS WHEREOF, I have hereunder subscribed my	
	hand on June 17, 2021.	
18		
19		
20	Early Langley	
21 22	carry rangely	
22	EARLY K. LANGLEY, CSR No. 3537	
23	State of California	
24	State of Camorina	
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	Page 3255	

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1	SUPERIOR COURT OF THE STATE OF CALIFORNIA
2	COUNTY OF ALAMEDA
3	BEFORE THE HONORABLE STEPHEN KAUS
4	DEPARTMENT 19
5	VIA ZOOM CONFERENCE
6	000
7	CHRISTINA G. PRUDENCIO,
8	Plaintiff,
9	vs. No. RG20061303
10	JOHNSON & JOHNSON, et
	al.,
11	
	Defendants.
12	/
13	
14	REPORTER'S TRANSCRIPT OF PROCEEDINGS
15	(Trial - William E. Longo, Ph.D.)
16	Wednesday, June 30, 2021
17	Full Session
18	
19	
20	Taken before EARLY K. LANGLEY, B.A., RMR, RSA
	CSR No. 3537
21	
22	
23	
24	VOLUME 29
25	PAGES 4457 - 4649

# Case 23302825 MBBK DDoc23483 FHidd 0051/2/22 Elettered 0051/2/22088369220 DDesc Exhibit 250105 to -Dattes bety edley bracilamation ARTP age Plage of 417 pt 2254458-4461)

	Pages 4438 - 4401)
1 APPEARANCES OF COUNSEL ON THE RECORD VIA ZOOM 2 CONFERENCE: 3 4 For the Plaintiff: 5 JOSEPH SATTERLEY	1 INDEX - VOLUME 29 - (Pages 4457 - 4649) 2 INDEX OF EXAMINATIONS 3 CHRONOLOGICAL 4 5 WILLIAM E. LONGO, Ph.D. (for the Plaintiff) 4471 6 Direct Examination By Mr. Satterley (Cont'd) 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25
1 INDEX - VOLUME 29 - (Pages 4457 - 4649) 2 SESSIONS 3 DATE PAGE 4 Wednesday, June 30, 2021 5 Morning and Afternoon Session 4465 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	1 INDEX - VOLUME 29 - (Pages 4457 - 4649) 2 INDEX OF EXAMINATIONS 3 ALPHA 4 WITNESSES: PAGE 5 WILLIAM E. LONGO, Ph.D. (for the Plaintiff) 6 4471 Direct Examination By Mr. Satterley 7 (Cont'd) 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25

# $\textbf{Case 2.23302825 MBBK} \ \ \textbf{DDo 0.234333} \ \ \textbf{Fittide 0.0951/0.1232} \ \ \textbf{Eintered 0.0951/0.1232083369220} \ \ \textbf{DDesc} \\ \text{Exhibitive index 2.03115 to -Datties keepen a reaction mattion RTP age Plage of 437 ph. 1 gest 54470 - 4473)} \\$

4470	4472
1 we had yesterday has been corrected.	1 A. Now it's okay.
THE COURT: All right. Excellent.	2 Q. I hope it doesn't go away now.
3 WILLIAM E. LONGO, Ph.D.	3 A. It just did again.
4 (For the Plaintiff)	4 Q. Oh, my goodness. I'm so sorry.
5 previously sworn as a witness,	5 A. Is that on our end or your end? 09:14:46
6 testified as follows:	6 Q. It's my end.
7 MR. SATTERLEY: I saw him for a second oh,	7 A. Thank goodness. I don't mean thank goodness,
8 there he is.	8 but
9 THE WITNESS: Am I in? Okay.	9 Q. Thank goodness it's my fault.
THE COURT: You have a new name, but you're in. 09:12:50	MR. SATTERLEY: Your Honor, we need one issue. 09:15:00
11 THE WITNESS: Yeah, you need to change it to my	11 Can I mute myself and try to solve this problem?
12 name.	12 THE COURT: Yes.
13 MR. SATTERLEY: Dr. Longo, you have an	13 THE WITNESS: It's on now.
14 assistant there with the camera and everything helping	14 THE COURT: Let's have Mr. Satterley talk to
15 you out? 09:13:11	15 his technical assistant. 09:15:11
16 THE WITNESS: Yes. He's putting the new name	16 MR. SATTERLEY: We think Mr. Green is the
17 in. We didn't realize it until we got in there, so	17 host. Some setting in Mr. Green's is making it go off
18 TECHNICIAN WILLIAMS: How's that?	18 every time I talk.
19 THE WITNESS: I would put "William Longo."	19 THE WITNESS: Mr. Satterley, it stayed on the
20 Just "William Longo" is fine. 09:13:23	20 whole time you were talking there. 09:15:26
21 You got it.	21 THE COURT: I think it's okay now.
THE CLERK: They're going to change it.	22 Mr. Green and Ms. Mendola will confirm, but it
23 TECHNICIAN WILLIAMS: There we go.	23 seems to be working.
24 THE COURT: Excellent.	24 MR. SATTERLEY: The stress of technology. I'm
as myrryymyrraa a state a	
25 THE WITNESS: Sorry, Your Honor. 09:13:37	25 sorry. 09:15:38
25 THE WITNESS: Sorry, Your Honor. 09:13:37  4471	25 sorry. 09:15:38 4473
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4471	4473
THE COURT: Just getting it straight.	4473 1 BY MR. SATTERLEY:
<ul> <li>THE COURT: Just getting it straight.</li> <li>Mr. Satterley, go ahead.</li> </ul>	1 BY MR. SATTERLEY: 2 Q. All right. So, Dr. Longo, is it true that you,
THE COURT: Just getting it straight.     Mr. Satterley, go ahead.     DIRECT EXAMINATION BY MR. SATTERLEY (Cont'd):	1 BY MR. SATTERLEY:  2 Q. All right. So, Dr. Longo, is it true that you, 3 in fact, confirm asbestos in Johnson's Baby Powder
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4490	4492	
1 Q. Okay.	1 A. Yes, sir, I have.	
2 A. That had the name of and I talked to a	2 Q. And you already told us yesterday you published	
3 person that used these microscopes. They called that	3 upon this; correct?	
4 the Jesus stick.	4 A. Yes, sir.	
5 Q. Why was that? 09:39:43	5 Q. And was that published in a peer-reviewed 09:42:03	
6 A. Because it had the capacitor in there, which is	6 scientific journal?	
7 essentially a battery, that would store the voltage up	7 A. Yes, sir, it was.	
8 to 50,000 volts and then let it out so it would be	8 Q. And have you studied the scientific literature	
9 direct current and not alternating current. But when	9 as it relates to exposures and exposure levels that	
10 you had to work on this instrument, you had to 09:40:00	10 occur as a result of asbestos being released from 09:42:13	
11 discharge that capacitor.	11 products?	
So that stick is made out of Bakelite, which is	12 A. Yes, sir. I must have hundreds of papers that	
13 a polymer, so it's insulated. And that wire is	13 I've reviewed, and I keep up with the literature, too.	
14 hooked to is to a little hook on it. I could have	14 Q. And have you published upon exposure and	
15 reached back and showed it to you. And then they would 09:40:19	15 exposure levels and done exposure simulation studies? 09:42:26	
16 have to ground it.	16 A. Yes, sir, I have.	
17 And when you ground that much voltage, you	17 Q. And have you analyzed a way in which	
18 can't put that hook on it fast enough not to get the	18 individuals are exposed to asbestos via cosmetic talc?	
19 arc. And when an arc goes through air, it causes	19 A. Yes, sir, I have.	
20 thunder. They used to say that that sounded like a .38 09:40:35	20 MR. SATTERLEY: Your Honor, at this time, I'd 09:42:41	
21 going off, and it would scare you every time.	21 offer Dr. Longo as an expert on electron microscopy,	
And also, the microscopes today have so many	22 asbestos analysis, and industrial hygiene exposure as	
23 safety features.	23 it relates to asbestos in talc.	
24 If you go back to the column and go up to the	24 THE COURT: Is there any voir dire or	
25 top, that was all live voltage. And so if you were to 09:40:50	25 objection? 09:42:51	
4491	4493	
1 reach up there by accident and touch that, you would be	1 MR. DUBIN: No. I have no objection within	
2 unconscious.	2 that scope subject to cross-examination.	
3 In the manual, on the first page when you	3 THE COURT: All right. So he's qualified as an	
4 opened up, it showed you how to give CPR, like in	4 expert.	
5 cartoons when they're laying on their stomach and they 09:41:09	5 BY MR. SATTERLEY: 09:43:04	
6 come in the back and, I guess, try to get their	6 Q. Have you been analyzing asbestos for most of	
7 breathing again.	7 your career?	
8 So my joke is, I'm an electron microscopist by	8 A. Yes, sir. I still have the first filter and	
9 training in scanning electron microscopist. The early	9 grids for the very first sample I ever analyzed. And	
10 electron microscopists were not wimps. They were 09:41:25	10 that was done in 1984, I believe. 09:43:20	
11 working with a very dangerous machine.	11 Q. You mentioned property damage and is this	
12 Q. Fair to say, Dr. Longo, you know a lot about 13 electron microscopy, both currently and going back in	12 you back in the 19 early 1990s, late 1980s in an 13 advertisement?	
14 time? 15 A. Yes, sir. I can bore I can bore somebody at 09:41:36	14 A. Yes, sir. I've got to say, I don't think I've 15 aged a day. 09:43:39	
16 a cocktail party really quick.	16 Q. Okay.	
17 Q. Okay. Let me just ask you a couple more	17 A. That that ad was generated in 1989.	
18 questions, and then I'm going to offer you as an	18 Q. Okay. Who is this with you in the ad?	
19 expert.	19 A. That's Mr. George Yamate. And he was working	
*		
1 20 have you studied scientific merature as it 109:41:47	20 for us for a while after he left the HTRL we call 19:43:59	
	20 for us for a while after he left the IITRI we call 09:43:59 21 it the IITRI research institute, the Illinois Research	
21 relates to asbestos and asbestos in products?	21 it the IITRI research institute, the Illinois Research	
21 relates to asbestos and asbestos in products? 22 A. Yes, sir, I have.	21 it the IITRI research institute, the Illinois Research 22 Institute. And his research was in asbestos and	
21 relates to asbestos and asbestos in products? 22 A. Yes, sir, I have.	21 it the IITRI research institute, the Illinois Research	
<ul> <li>21 relates to asbestos and asbestos in products?</li> <li>22 A. Yes, sir, I have.</li> <li>23 Q. Have you studied and reviewed the scientific</li> </ul>	21 it the IITRI research institute, the Illinois Research 22 Institute. And his research was in asbestos and 23 protocols.	

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4502	4504
1 bit of iron.	A. Yes. And it's regulated as asbestos.
2 Q. This word up here with actinolite says "ferro,"	2 Q. Let me go to the first question of the three
3 f-e-r-r-o. What does ferro mean?	3 questions that I have asked you to help us out with.
4 A. Ferro is iron, and it means it has if you	4 Did Johnson's Baby Powder contain asbestos
5 look at the other end, you have tremolite. And as I've 09:55:50	5 historically, Dr. Longo? 09:58:35
6 talked about earlier, the difference between tremolite	6 A. Yes, sir, it did.
7 and actinolite is the amount of iron. So the iron	7 Q. And we want to go to some of the internal
8 here, again, is replacing the magnesium. You start off	8 documents. You reviewed a lot of internal J&J
9 with tremolite with	9 documents over the last few years; correct?
10 I'm sorry. 09:56:08	10 A. Yes, sir, I have. 09:58:49
11 Q. My question was, what is ferro, f-e-r-r-o?	11 Q. And I want to go first to the way Johnson &
12 A. That means iron.	12 Johnson internally, outside of litigation, defined
13 Q. Okay. So are there going to be sometimes	13 "asbestos."
14 ferro-anthophyllite, meaning iron-enriched	14 And do they have historical documents in 1978,
15 anthophyllite? 09:56:24	15 in 1994, and other definitions decades ago where they 09:59:04
16 A. Yes. I've seen it called ferro-anthophyllite,	16 define what "asbestos" is to Johnson & Johnson?
17 and then I've also seen that called amosite or	17 A. Yes, sir, they did. Their TM7024 method has
18 grunerite.	18 these definitions in it.
19 So as the anthophyllite gets formed with iron,	19 Q. 7024, right here, is 1994.
20 at some point and this all happens during the 09:56:34	20 And then this December 4, 1978, definition, 09:59:23
21 formation. It's not, like, anthophyllite, and all of a	21 they say:
22 sudden, it just starts changing after its formed.	22 "'Asbestos' is defined as," finally,
23 At some point, it changes the crystalline	23 "fibrous form of serpentine, known as
24 structure to fit all that iron in there, and it becomes	24 chrysotile, and the five fibrous forms of the
25 a monoclinic, right there where it says "A-C" with the 09:56:51	25 amphibole group: amosite, anthophyllite, 09:59:36
4503	4505
1 line up.	1 crocidolite, tremolite, and actinolite."
2 Q. So within the Manual of Mineralogy, is	2 Right?
3 anthophyllite part of a solid solution series?	3 A That is correct
4 A. Yes, sir, it is.	4 Q. And but they don't break out under amosite
5 Q. If someone were to come into this courtroom and 09:57:07	5 cummingtonite and grunerite. Does that mean 09:59:49
6 say, "No, no, no, anthophyllite anthophyllite is not	6 cummingtonite and grunerite is not asbestos?
7 part of the solid solution series," would you disagree	7 A. No. That was it was almost amosite
8 with them?	8 became like, you know, "Get me a Kleenex," or "Go make
9 A. I would disagree to the point where it has that	9 me some Xerox copies of this," even though it may have
10 one A-C, because they have new definitions. It always 09:57:20	10 been manufactured by a different person or may not have 10:00:06
11 changes. But in order for anthophyllite to get iron,	11 a Xerox machine. It just sort of became in the
12 that's solid solution. That's because the recipe at	12 lexicon.
13 that point, when it was made, included iron.	Now but that's changed. If you look at
And for cummingtonite to get to grunerite, the	14 definitions like, you know, the National Institutes of
15 same thing happens. That's solid solution series. 09:57:41	15 Occupational Safety and Health, they'll have 10:00:22
16 If you go back a slide and look at the solid	16 cummingtonite/grunerite and and trying to get it
17 solution series for tremolite going to actinolite, you	17 more to what the mineral really is, not just a
18 don't it doesn't change its crystalline structure.	18 commercial name of amosite.
19 So I guess the purist would say that is a total solid	19 Q. Johnson & Johnson's definition under the Test
20 solution series. 09:58:03	20 Method 7024, which we'll talk about in more detail, 10:00:41
And, also, it doesn't show that tremolite can	21 says:
22 also incorporate either phosphate or some sodium, which	
	22 "'Asbestos' is defined to be the fibrous
23 gets you winchite and richterite.	23 serpentine chrysotile and the fibrous forms of
<ul> <li>23 gets you winchite and richterite.</li> <li>24 Q. All of these mineral terms, if they are in the</li> <li>25 fibrous form, in your opinion, is that asbestos?</li> <li>09:58:19</li> </ul>	

actinolite." 1 documents, both historical documents coming up all the Was that -- is it your understanding that's 2 way over the last few years, and found that asbestos 3 Johnson & Johnson's internal definition? 3 was identified in Johnson & Johnson talc or the mines A. Yes, sir. 4 by all of these various laboratories? Q. And have you seen any internal definitions of 10:03:45 A. Yes, sir. 6 Johnson & Johnson that they added to this definition or Q. AMA Analytical, did they find asbestos in 7 changed the definition and said "and it's got to also 7 Johnson & Johnson talc? 8 be in a population"? A. They did. Q. Battelle Laboratories, did they find asbestos A. No. 10 10:01:13 10 in J&J talc? Q. In any of Johnson & Johnson's definitions 11 internally, the corporate definitions, did you ever see 11 A. Yes, sir, they did. 12 anything that said "these fibers have to be in a habit, 12 Q. Colorado School of Mines, did they find 13 they have to be in a habit together"? 13 asbestos in J&J talc? A. Well, no. A habit is how the crystalline A. Yes, sir, they did. 15 15 structure is formed. But what people don't talk about 10:01:32 Q. Cyprus Windsor Minerals, did Cyprus -- did they 10:04:0 16 is that in a mine, you can have many different habits. 16 purchase the J&J talc mines in Vermont in 1989? 17 17 You can have a habit that can fit in your hand. You A. They did. 18 can have a piece of rock --18 Q. And did they call it Cyprus Windsor Minerals, 19 they sort of changed the name for a little while? 19 Q. Let me stop you there. 20 Can you have a habit that's actually on the tip 10:01:47 A. Yeah. I guess, you know, the Cyprus Windsor 10:04:18 21 of your fingertip? 21 Minerals, which means that the mill was in Windsor A. Yes. There's -- there's no such thing as a 22 County, as I remember correctly. 23 mine that is all one habit. So you can have a rock, a Q. And did Cyprus documents demonstrate asbestos 24 piece of the mine that has both nonasbestiform and 24 in the Vermont talc mines was a source of Johnson & 25 asbestiform in the same habit. You're never going to 25 Johnson talcum powder? 10:04:36 10:02:05 4507 450 1 have one habit that's all one thing. A. Yes, sir. As far as I can tell, there's no such thing as Q. Dartmouth University, did they identify 3 a nonasbestiform tremolite or actinolite or -- that is 3 asbestos in Johnson & Johnson talc? 4 all -- the whole mine is all that habit. A. Yes, sir, they did. If you have one, you're going to have the 10:02:26 Q. Historically, going back, FDA, did the FDA, 10:04:43 6 other, in my opinion. 6 Dr. Stewart and others, identify asbestos in Johnson & 7 Johnson talc? Q. So just within -- here's another definition. 8 This is another definition, and this one is 19 -- I A. Yes, sir. I think first showed evidence of 9 can't see that. Is that '94? 9 that in 1973, maybe, '72, '73 initially. And then, of 10 course, I think a year and a half ago or two years ago. 10:05:03 11 Q. January 10, 1994. 11 And in FDA, that was the work that AMA did on behalf of 12 12 FDA. Is this, once again, another definition of 13 asbestos from Johnson & Johnson? 13 Q. Sure. There's two different -- a couple A. Yes, sir, it's a definition. 14 different labs. Back in the '70s, early '70s, And they also have their -- what I'd call the 10:02:54 15 Dr. Lewin, Dr. Stewart, and then recently with AMA in 16 counting rules in their protocol. We haven't seen it 16 2019; right? 17 yet. 17 A. That is correct. 18 Q. And the counting rules you talked about Q. Forensic Analytical in Hayward, California, did 19 they identify off-the-shelf Johnson & Johnson product 19 earlier, AHERA or the EPA counting rules, is that a 20 requirement of J&J historically in their definitions? 10:03:09 20 and found anthophyllite asbestos? 21 A. Yes. But it's -- it's very less conservative A. Yes, sir, they did. 22 than the EPA or AHERA counting rules. Q. Imerys Talc, was Imerys Talc the successor to Q. And we'll go through that a little bit later. 23 Cyprus, and did they have laboratories to analyze talc 24 Now, going to the historical documents before 24 for the presence of asbestos? 25 we get to your test. Have you reviewed historical 10:05:45 10:03:28

4510	4512
1 Q. And did they find asbestos in the talc?	1 A. Yes, sir, they did.
2 A. They did.	2 Q. I'm going to go over just a few examples of
3 Q. Johnson & Johnson, did they their historical	3 these.
4 documents identify asbestos in Johnson & Johnson talcum	4 This is April 14, 1971, from the Colorado
5 powder products? 10:05:56	5 School of Mines to a Mr. Robert Russell. 10:08:00
6 A. Yes, they did.	6 Have you reviewed this document in total?
7 Q. McCrone labs, did the McCrone laboratory find	7 A. Yes, sir, I have.
8 asbestos in Johnson & Johnson's product?	8 Q. And did the Colorado School of Mines do
9 A. They did.	9 analysis, both microscopic analysis and x-ray
10 Q. Did you, at one point in time years ago, say 10:06:04	10 diffraction, on two Vermont final product samples? 10:08:17
11 McCrone laboratory was the best laboratory one of	11 A. Yes.
12 the best laboratories in the world?	The optical analysis just looking at what
13 A. Yes, sir, I did.	13 they did for the optical analysis, they were using
14 Q. And at the time that you gave that testimony	14 polarized light and refractive indices fluids or oils,
15 that McCrone was one of the best laboratories of the 10:06:17	15 a lot of people call them, and which we'll talk about a 10:08:34
16 world in the world, did you have the internal files	16 lot later.
17 of Johnson & Johnson regarding what occurred	So they identified tremolite-actinolite, but
18 historically with regards to the analysis of their talc	18 that was through optical, and the XRD would only tell
19 for asbestos?	19 you if it was high enough concentration if it was
20 A. No, sir, I had not reviewed them at that time. 10:06:30	20 present. 10:08:50
21 Q. The mine	Q. In these two Vermont final product samples,
22 A. I stated that.	22 when they describe that as "needle-like particles,
23 Q. And we'll talk about McCrone a little bit more.	23 tremolite asbestos needles," is that asbestos, in your
24 The Mine Safety and Health Administration, did	24 opinion?
25 they document asbestos in mines that provided asbestos 10:06:41	25 A. Yes, sir. That's fibrous. In order to have a 10:09:01
4511	4513
1 to Johnson & Johnson?	1 needle, a lot of it has to be fibrous. And then what
2 A. Yes, sir. If I recall, it was in air samples	2 would look like a point under optical microscopy, we
3 they were taking.	3 know that is actually bundles because you can't see
4 Q. Mount Sinai Mount Sinai, Dr. Langer and	4 single fibers with polarized light microscopy.
5 others, did they identify asbestos in Johnson & Johnson 10:06:57	5 So it's my opinion they were looking at bundles 10:09:17
6 product?	6 that just were a little bit longer individual fibers in
7 A. Yes, sir, they did.	7 the bundle at the end of the bundle. That would look
8 Q. Rio Tinto Minerals, was that another talc	8 like a needle under optical microscopy.
9 source for Johnson & Johnson?	9 Q. Now, you said we're going to look at some 10 photographs later of polarized light microscopy of 10:09:30
10 A. Yes, sir. 10:07:08  11 Q. Did they identify asbestos in Johnson & Johnson	11 asbestos in Johnson & Johnson product.
11 Q. Did they identify asbestos in Johnson & Johnson 12 talc?	12 You have never been excuse me.
13 A. Yes, sir, they did.	13 You've never been provided these particular
14 Q. And we heard from Dr. Alice Blount. She was	14 samples from 1971; correct?
15 with Rutgers University. 10:07:17	15 A. Oh, no, I have not. 10:09:43
16 Have you reviewed her testing and her testing	16 Q. Okay. And do you know if Johnson & Johnson
17 results?	17 retained these samples that Colorado School of Mines
18 A. Yes, sir. In fact, that was her paper is	18 described as tremolite-actinolite needles?
19 what we initially used to start testing Johnson &	19 A. No, I understand they did not.
20 Johnson because of the heavy liquid density separation 10:07:31	20 Q. In this very letter, do they talk about the 10:09:59
21 that she published.	21 fibrous content of Sample 16 was slightly higher than
22 Q. And Windsor Minerals, once again, Cyprus	22 fibrous content of Sample 15?
23 Cyprus purchased in 1989, but even before the purchase	23 A. Yes.
24 back historically, did Windsor Minerals discuss	24 Q. We've got 15 and 16 here.
	25 And they talk about fibrous percentages, 10:10:16
25 asbestos in their talcum powder products? 10:07:45	

4514	4516
1 2 percent for Sample 15 and 4 percent for 16, and the	1 MR. SATTERLEY: I think Mr. Green or
2 tremolite-actinolite, trace amounts for 15 and	2 Ms. Mendola does that. Otherwise, I have to bounce
3 1 percent for Sample 16; right?	3 back and forth from screens.
4 A. Correct.	4 THE COURT: All right. Where do you want to
5 Q. And is that significant to you, both in terms 10:10:33	5 be? Up in the top row? 10:31:03
6 of the presence of asbestos and in terms of potential	6 MR. SATTERLEY: If you don't mind, yeah, up
7 exposure to asbestos?	7 near the witness or near Mr. Dubin or near you.
8 A. Yes.	8 THE COURT: All right.
9 The 1 percent is very significant. And trace,	9 THE CLERK: Let me go ahead and rearrange,
10 even though it's trace, which would, in my opinion 10:10:50	10 Mr. Satterley. Just a minute. 10:31:13
11 which we call anything less than .1 percent, that it is	11 THE COURT: Okay.
12 still a trace amount is very significant on the	12 So let's wait a second and let Ms. Mendola
13 numbers of fibers and bundles you would have, just	13 rearrange here.
14 because the size of the fibers are such that an	14 MR. SATTERLEY: And while we're doing that, I'm
15 individual fiber, or bundle, you can only theoretically 10:11:11	15 going to screen share to see if this works. We've 10:31:18
16 calculate the weight, but it's in the picogram range,	16 logged out and logged back in.
17 which is in the trace per gram range.	17 THE COURT: All right. Fine.
18 Q. The same year, 1971, there's the Colorado	18 For some reason, every time we break and come
19 School of Mines report on July 7, 1971, to William	19 back, Ms. Mendola has to rearrange everybody.
20 Ashton at Johnson & Johnson. 10:11:35	20 And there. Everybody is in numerical order. 10:31:30
21 Have you reviewed this document in total?	21 Mr. Satterley, you and Dr. Longo are both on
22 A. This April 4th, 1971? Yes, sir.	22 the top row, and I think this should work.
23 Q. We're down to July 7th.	23 MR. SATTERLEY: That's good. Can you see me
24 A. Well, I'm still seeing the same thing.	24 switching from slide to slide, Your Honor?
25 Q. Oh, it didn't go forward? 10:11:48	25 THE COURT: Yes. Yes. 10:31:47
4515	4517
1313	
1 A. No. sir.	1 MR. SATTERLEY: Okay, That worked, We
1 A. No, sir. 2 O. Let's close the stop share screen and try	MR. SATTERLEY: Okay. That worked. We     rebooted.
2 Q. Let's close the stop share screen and try	2 rebooted.
<ul><li>Q. Let's close the stop share screen and try</li><li>3 again.</li></ul>	2 rebooted.
2 Q. Let's close the stop share screen and try 3 again.	2 rebooted. 3 I'm ready to proceed whenever Mr. Dubin comes
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2 Q. Let's close the stop share screen and try 3 again. 4 Now are you seeing July 7th? 5 A. No. 10:12:10 6 THE COURT: Is this a good time to take our 7 morning break? 8 MR. SATTERLEY: Yeah. It's 10:12. Perfect 9 time. 10 THE COURT: All right, ladies and gentlemen. 10:12:20 11 Let's take a break till 10:30. We'll sort this out. 12 Don't do any research. Don't talk to anybody 13 about anything having to do with the case. And don't 14 reach any conclusions until you've heard all the 15 evidence and the argument and the law. 10:12:32 16 See you at 10:30. Thank you. 17 (Recess taken.) 18 (The following proceedings were held in the 19 virtual main room in the presence of the jury:) 20 THE COURT: End of recess. 10:30:34 21 MR. SATTERLEY: I'm back, Your Honor. If 22 Mr. Green could move me back over towards you, I'll be	2 rebooted.  3 I'm ready to proceed whenever Mr. Dubin comes  4 back oh, there he is.  5 THE COURT: There he is. 10:31:56  6 All right. Mr. Satterley.  7 BY MR. SATTERLEY:  8 Q. Dr. Longo, can you hear me okay?  9 A. Yes, sir, I can. Can you guys hear me?  10 Q. Yes, yes. We rebooted. 10:32:04  11 And we were on this slide here, April 1971, and  12 we are now on July. Can you see July?  13 A. Yes, sir, I can. July 7th.  14 Q. Okay. Now, this one is from the Colorado  15 School of Mines to Mr. Ashton at Johnson & Johnson, and 10:32:21  16 this one talks about x-ray diffraction.  17 A. Correct.  18 Q. And this x-ray diffraction analysis, you told  19 us earlier, it can't tell fibers versus whether it's  20 nonfibers; right? 10:32:37  21 A. That is correct.  22 Q. All right. And they described tremolite and

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4518 1 is an open pit mine, so they're doing blasting to 1 A. I do. 2. Q. And so they identify the trace amounts and then 2 generate what they're moving out -- and that this is 3 3 percent, trace amounts, 3 percent, trace amounts of 3 what they're using to manufacture a finished product, 4 the tremolite-actinolite. 4 meaning this is what they're using to put in the Using this technology, though, are you able to 10:33:07 5 containers of Johnson's Baby Powder or -- let's see. 10:35:39 6 say that it's fibrous tremolite in this particular 6 '74? Or it could be Shower to Shower, their other 7 sample? 7 talcum powder body product -- that's going out to 8 consumers. 8 A. No, you can't. Q. They also report mica in all the samples. Is Q. He writes: 10:33:18 10 10 mica something that you have seen documented in "The levels of chrysotile observed in the 10:35:54 11 Johnson & Johnson Baby Powder historically, in the 11 two high samples only an order of magnitude 12 12 historical documents? above this would presumably be reduced A. Yes, sir, I have. 13 considerably by your beneficiating process." Q. So let's move forward in time. And this is 14 Do you see that? 15 15 1974, and this is just one example of a letter from the 10:33:34 10:36:06 16 McCrone lab, a person named Ian Stewart. Have you 16 Q. Was Johnson & Johnson, based upon your review 17 reviewed the various Ian Stewart letters over the 17 of historical documents, able to remove the asbestos 18 from the product? 18 years? A. I have. 19 A. No. They tried in the beneficiation --Q. In this particular 1974 report talking about 20 beneficiation -- beneficiating process, which is the 21 final step, which is the flotation, where they try to 21 the Argonaut ore body --Is the Argonaut ore body one of the mines that 22 separate out all the other stuff that is heavier. And 23 Johnson & Johnson used for talc for its baby powder? 23 they use a -- what's known as a surfactant, which, A. Yes, it is. 24 essentially, is a soap, to try to get only the talc 25 25 plates. Q. And they report -- Mr. Stewart reports in 1974: 10:34:03 10:36:36 4519 4521 1 "As will be seen from Table 2, only two And there's other documents that shows that 2 samples" --2 they were able to reduce it some in a pilot plant, but 3 And he's got the sample numbers. 3 they were not able to remove it. 4 -- "show a level of asbestos above Q. He says that the --5 0.0005 percent, the actual figures being 10:34:18 "This ore is substantially asbestos-free." 10:36:50 0.007 percent and 0.001 percent respectively, Does that, in your opinion, mean that this 7 for chrysotile asbestos, plus approximately 7 product doesn't have asbestos in it? 0.0001 percent of fibrous tremolite." A. No. That's not the right language. You can't So my first question to you, Dr. Longo, does 9 have substantially asbestos-free when you're finding --10:34:40 10 this, in your opinion, demonstrate both the 10 and even though they're very low percentages, those all 10:37:08 11 amphibole -- asbestos amphiboles and the serpentine 11 represent significant amount of asbestos fiber bundles 12 asbestos present in the Vermont talc ore? 12 even though they try to say, "Well, it's such a low 13 A. Yes, it does. 13 percentage, it's trace." Q. And he goes on to talk about: But to -- understand, to get those percentages, 15 "The remaining samples which showed 10:34:54 15 you have to have in a gram -- for polarized light 10:37:26 16 asbestiform fibers are exhibiting levels which 16 microscopy, there will be tens of thousands of 17 are no higher than has been seen in raw 17 individual fibers -- and you're not seeing fibers; 18 composite used to manufacture a finished 18 you're only seeing the bundles, because this is, I 19 product." 19 assume, being done by polarized light microscopy or What does that mean to you, from an expert 10:35:06 20 optical microscopy. 21 standpoint? Q. This says it's written to Mr. Vernon Zeitz at A. Well, what they're stating is that the amount 22 Windsor Minerals Company. Is it your understanding 23 that's present in the raw composite, which is, 23 that he was working for Windsor Minerals, which was a 24 essentially, the talc ore and whatever else gets in 24 subsidiary of Johnson & Johnson? 25 there with it when they mine it -- I believe Argonaut 10:35:19 A. Yes, sir. 10:37:57

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1 Q. Moving forward in time	1 A. Right there.
2 And there is by the way, we've already went	2 If that was a little higher magnification, you
3 over with Dr. Egilman some of the other reports from	3 would see that that looks like almost like a plank
4 McCrone regarding asbestos in the cosmetic talc, so I'm	4 because it's typically, in amphiboles, especially
5 not going to go over all of them with you? 10:38:0	9 5 here, you're not going to see absolutely round at 10:40:52
6 In 1992, did you evaluate Cyprus's evaluation	6 times. You'll see differences.
7 of the ore in Vermont, in the Vermont talc mines that	7 And, for example, if you go back to the
8 they took over when they shortly after they took	8 left-hand side, where you have right there.
9 them over from J&J?	9 Go back.
10 A. Yes, sir, I did evaluate those documents. 10:38:2	2610 Q. Right here? 10:41:09
11 (Whereupon, Plaintiff's Exhibit 6327 was marked	11 A. Yes.
12 for identification.)	You can see these little lines in there, and
13 Q. And this one, 1992, which is Exhibit 6327,	13 those little lines is the separation of the showing
14 says:	14 individual amphiboles in this case, tremolite
15 "Fibrous minerals, tremolite and 10:38:37	15 structures and how they kind of stack up on each 10:41:24
16 actinolite, are ubiquitous in several zones of	16 other.
17 Vermont mines. The potential problems involved	17 Q. I know that Johnson & Johnson never had a
18 with fiber dumps and, to some degree, in	18 population requirement in any of their definitions
19 products must be carefully evaluated."	19 outside litigation, but if they did have a population
20 First of all, in your opinion, does that, 10:38:53	20 requirement, would this be a population of tremolite? 10:41:36
21 fibrous minerals of tremolite and actinolite, mean that	21 A. Well, a population is literally defined as more
22 asbestos is present?	22 than more than one. So yes, this would be this
23 A. Yes.	23 would be a population, because you have more than one
Q. And with regards to it being ubiquitous, what	24 or more than two, more than three.
25 does that word mean? 10:39:08	25 That's the problem, is the population is just a 10:41:56
4523	4525
1 A. It is means that it's everywhere. In those	1 definition for say, like, for a geologist who is
2 several zones in the mines, it would be everywhere.	2 looking at a potential asbestos mine and they want to
3 Q. Moving forward in time, this is 2002, and this	3 see a lot of fibrous material there so that if you are
4 is analysis from waste rock in Argonaut. Have you seen	4 going to dig it up, process the asbestos, that it has
5 this report from Luzenac America? 10:39:27	5 value. 10:42:18
6 A. I have.	6 So in our protocols, where it gives a general
7 Q. And was Luzenac America the I guess the	7 definition of "population," there is no there is no
8 predecessor to Imerys, who supplied the talc to	8 information in the protocol, the recipe. There's no
9 Johnson & Johnson?	9 steps there to say, "I have a population." So it never
10 A. It is. 10:39:37	10 was intended as a requirement to determine if you have 10:42:36
11 Q. And in this particular report dated May	11 asbestos present or not. And all the protocols have
12 the 23rd, 2002, do they document and take a	12 that general definition.
13 photograph an SEM photograph of fibrous material,	But in order to say, "I'm going to determine a
14 tremolite, in the Argonaut waste rock?	14 population," you have to have that recipe that tells
15 A. Yes. That's what that shows. 10:39:59	15 you what you are going to be doing to determine that 10:42:52
16 Q. And we talked earlier about SEM is different	16 population, and there's none of that.
17 than the TEM. Does this demonstrate that there's a	17 Q. And with regards to this tremolite asbestos, is
18 bundle? Are bundles there?	18 it the same type of asbestos that Dr. Blount
19 A. Yes. The resolution is not that good. You	19 reported
20 have some single let's see. That's taken at 500X, 10:40:16	20 A. Yes. 10:43:05
21 so 500 times. You would have to go up in higher	21 Q in her in her paper in 1991 and testified
22 magnification on some of the smaller ones.	22 about?
But if you go and look where you can find an	23 A. Yes, sir, it is.
24 end, towards the right-hand side	24 Q. Okay. And at this time frame, 2002, was
The state of the s	
25 Q. Right here? 10:40:35	25 Johnson & Johnson still using Vermont talc for their 10:43:16

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4526 4528 1 really need to be sitting at the transmission electron 1 baby powder? A. Yes, it was 2 microscope to make that final determination. Q. Now, obviously, there's other -- other labs and O. And does the AMA lab call this a talc fiber? 4 lab reports that are going to be into evidence, so I'm A. Yes, sir, they do. 10:45:48 5 not going to talk about them all, but I do want to talk 10:43:33 Q. But this looks kind of chunky. 6 about the FDA contract with AMA in October of 2019. Why would they -- why would it be called a talc 7 Have you had the opportunity to review that report? 7 fiber if it just looks like a chunk like that? A. I have. A. Because those are the counting rules. I mean, Q. And do they take photographs of the various 9 that's what you do. We'll go into the counting rules 10 items found in the Johnson's Baby Powder in October of 10:43:45 10 like TEM, but it matches what is called a fiber in the 10:46:06 11 2019? 11 counting rules. 12 A. Yes, they do. Q. The same report in October of 2019, the Q. And did the lab manager, Mr. Saldivar -- did he 13 contract with the FDA, do they take photographs of 14 give testimony regarding their findings with regards to 14 asbestos in the off-the-shelf Johnson's Baby Powder? 15 Johnson's Baby Powder? A. Yes, they do. A. Yes, sir. He gave a deposition and was asked Q. And is this photograph on the left -- does it 17 questions about that. 17 fairly and accurately represent the photograph produced 18 in this case, produced by J&J regarding what AMA found Q. And do these photographs fairly and accurately 19 represent the photographs from the FDA contract lab of 19 in their product? 20 what they found -- some of the things they found in 20 A. Yes, sir. 21 Johnson's Baby Powder off the shelf at that time frame? 21 Q. And it's got structures, and it's got the --22 it's got numbers here on the um. What does um mean? Q. And on the left we have platy talc. Is that --A. Um is a measurement of -- it stands for 24 you've seen platy talc under the microscope; correct? 24 micrometers, and that's the unit of measure that we use A. We have. 10:44:27 25 for asbestos. 10.46.54 4527 4529 Q. And does that fairly and accurately represent And to give an idea what a micrometer is, if 2 what platy talc looks like? 2 you think of a yardstick and -- which is three feet 3 long, if you had a one-meter yardstick, it would have 3 A. Yes. 4 Q. And then we got talc ribbon. 4 another three inches on it. What is a talc ribbon? 10:44:35 And how to get to -- so microgram is 10:47:07 A. A talc ribbon is essentially -- it's supposed 6 one-millionth of a gram. So if you were to take that 7 to look like a ribbon. You know, it's flat, and it's 7 yardstick that's now a meter yardstick and slice it 8 all curly. 8 evenly into one million slices, each one of those 9 slices would be one micrometer in width -- or length. I would have to look at that very closely Q. Do these meet the definition of asbestos? 10:47:32 10 because that does not give you what -- in my opinion, 10:44:49 11 what a typical ribbon looks like, because if you look A. Yes, sir. That is the -- for EPA, for others, 12 at the end of that, you can see -- the end on the 12 that would meet the criteria to call for asbestos, the 13 right-hand side, you can see that it kind of goes down 13 morphology criteria, what it looks like. 14 to a point. And to me, that's sort of the needle end. 14 Does it have substantially parallel sides? And if you go to the other side, you can see 15 Yes, it does. 16 that there is -- if you look close enough, there's 16 Is the structure greater or equal to 17 actually little individual structures there. And I 17 .5 micrometers in length? They all do. 18 would say that had a break in it. But that's a minor And does it have at least a 5 to 1 aspect ratio 19 point. 19 or greater? Meaning, is the length 5 times longer than But I've seen talc ribbons. I, if I was 20 the width. And you can see every one of those are. 10:48:11 21 sitting at the microscope, may or may not call that a 21 So that meets the morphology definition for 22 asbestos by the EPA, as well as the ASTM, as well as Q. But that laboratory on contract with FDA called 23 the ISO definitions. 24 this a talc ribbon; correct? Q. To your knowledge, has the FDA or the AMA ever A. I'm not here to say it's not, because you 25 retracted the finding that there was asbestos found in 10:48:34

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4538	4540
1 there?	1 Q. And is this part of your report, where you
2 A. Yes, sir, I do.	2 outline identifying asbestos, the protocol you're
3 Q. So MAS, with regards to the TEM analysis of J&J	3 using?
4 talc samples, have you utilized this three-step method	4 A. Yes, sir. All our reports discuss how we did
5 that you were talking about? 10:59:38	5 it. It's called the Materials and Methods section of, 11:02:06
6 A. Yes, sir, we do.	6 when you go through, "Okay, how did you do it? What
7 Q. So Step 1 being the aspect ratio and the length	7 did you use? What are you basing your conclusions on?"
8 of the structure?	8 And we lay that all out.
9 A. Yes. The 5 to 1 or greater, at least	9 Q. And you do the three-step process, just as in
10 0.5 micrometers in length. What we don't have is the 10:59:51	10 the regulations, just as in the literature, just 11:02:21
11 substantially parallel sides, which we do follow.	11 just as you published on yourself?
12 And then we have Step 2, which is the	12 A. Yes, sir, that's correct.
13 chemistry. So the chemistry has to match for the	13 O. And the ISO, do they also define "fiber" as
14 particular type of asbestos that you think it is at	14 elongated particle which has parallel or stepped sides?
15 this point. 11:00:08	15 A. Correct. 11:02:41
16 And Step 3 is, you have to verify its	16 Q. And that's Step 1; right?
17 crystalline structure.	17 A. That is Step 1.
18 Q. With the selected area electron diffraction?	18 Q. You published on these published literature
19 A. Yes, sir, that is correct.	19 on identification of asbestos using the three-step
20 Q. So the ISO, do they also describe what the 11:00:19 21 definition of a fiber is?	20 process; correct? 11:02:52 21 A. Correct.
	22 Q. And what is this publication, briefly?
22 A. Yes, sir, they do. 23 Q. And is it the same there?	23 A. This is a publication that we had published in
24 A. The aspect ratio and the minimum length is the	24 the Cancer Research about the Kent Micronite filters
25 same as the EPA and the same as ASTM. 11:00:32	25 that Lorillard, the manufacturer of the cigarettes 11:03:09
4539	4541
1 Q. The ASTM D5755?	1 they called it the Micronite filter. It was the first
2 A. Yes, sir. 3 Q. So does ISO 13794 have this information	2 filter they put out, and it was put on cigarettes in
4 regarding the best available evidence with regards	3 1951 through 1955, I believe.  4 And what they did was is they they put
5 to it says: 11:00:55	5 crocidolite, along with blue-dyed cellulose ester 11:03:29
6 "The best available medical evidence	6 fibers, and they also had to put small crepe paper in
7 indicates that all numerical fiber	7 there you can see the white stuff that sort of
8 concentration and the fiber size and type are	8 zigzags back and forth because crocidolite is such a
9 the relevant parameters for evaluation of	9 good filter. They had to loosen the filter up and give
	10 it structure, because if they didn't do that, people 11:03:52
11 measuring technique is the only logical	11 couldn't really pull the smoke through the filter
12 approach."	12 because it filtered so well.
13 A. Yes, sir. And I agree with that.	13 And we did a whole study and measured the
14 Q. And they say the International Standards	14 number of fibers crocidolite fibers that are
15 Organization says: 11:01:19	15 released from these types of cigarettes and published 11:04:07
16 "Based upon transmission electron	16 it.
microscopy, which has adequate resolution to	17 Q. And you published this in the scientific
allow detection of small fibers, is currently	18 journal called Cancer Research in 1995?
the only technique capable of unequivocal	19 A. Yes, sir, we did.
20 identification of the majority of individual 11:01:31	Q. And the three-step process that you are talking 11:04:18
21 fibers of asbestos."	21 about here in 2021, did you use that three-step process
22 A. Correct. And I agree with that also.	22 to identify asbestos in these filters of these
23 Q. Now, did you utilize these methods in analyzing	23 cigarettes?
24 Johnson & Johnson talc samples?	24 A. Yes, sir, we did.
25 A. Yes, sir, I did. 11:01:47	25 Q. This next publication that you published in the 11:04:29

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liquid followed by the evaluation of centrifuge	1 Q. And they call it fiberform amphibole in the ore
2 by microscopy or preparation of TEM specimen	2 and the talc product?
3 from the untreated material followed by the	3 A. Yes, sir. The ore sample had 2300 parts per
4 examination using mass counting procedure."	4 million, and the talc product had 170 parts per
5 Has your laboratory done that? 11:21:49	5 million. If you want to know what those percentages 11:24:46
6 A. We have done both mass counting, which is	6 are, you just take those numbers and divide it by a
7 weight percent, and also, we would calculate the number	7 million.
8 of fibers and bundles per gram. So we have done both.	8 So this would be approximately point let's
9 Q. We heard earlier from Dr. Egilman about	9 see 1, 2, 3, 4, 5, 6 so we're looking at 0.0 I
10 Dartmouth, and the heavy liquid separation from 11:22:09	10 think it's 0.002 to 0.00002. And we see concentrations 11:25:04
11 Dr. Reynolds.	11 in that range.
12 Did you obtain these documents from the files	12 Q. They say, "Small amounts of anthophyllite may
13 of Johnson & Johnson through the discovery process?	13 be present."
14 A. Yes, sir. This this actually was published	14 Is that asbestos, in your opinion?
15 three months after not published, but it was a 11:22:28	15 A. Yes, sir. We have found asbestos 11:25:21
16 confidential on behalf of Windsor Minerals, three	16 anthophyllite.
17 months after Johnson & Johnson had finalized their	17 Very good. I was close017. I think I said
18 double density separation process in December of 1973.	18 0.02. Or 002. I missed a couple zeros. Thank you.
19 Q. And when you said "published," you don't mean	19 Q. No problem. So this is a photograph. Did they
20 published in a publication? 11:22:49	20 actually have a photograph of the anthophyllite and 11:25:39
21 A. No, no, no. They finished the protocol up, and	21 actinolite asbestos in the samples, the talc samples?
22 then they had the which was the Colorado School	22 A. Yes, sir. That shows you're seeing found
23 of Mines was doing it on behalf of Johnson & Johnson.	23 a couple other actinolites. And then he's saying that
24 And all the senior people at the Colorado School of	24 really long structure there, that fibrous structure is
25 Mines had signed off on it. 11:23:03	25 anthophyllite. 11:26:05
4555	4557
4555  1 Q. And this is into evidence as Exhibit 601.	4557  1 Q. And we already showed some examples of this.
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1 Q. And this is into evidence as Exhibit 601.	1 Q. And we already showed some examples of this.
1 Q. And this is into evidence as Exhibit 601. 2 Is this documentation evidence that Johnson &	Q. And we already showed some examples of this.     Is this the difference between platy talc and
<ol> <li>Q. And this is into evidence as Exhibit 601.</li> <li>Is this documentation evidence that Johnson &amp;</li> <li>Johnson had regarding a way to identify asbestos using</li> </ol>	<ol> <li>Q. And we already showed some examples of this.</li> <li>Is this the difference between platy talc and</li> <li>fibers and bundles and how they could appear under the</li> </ol>
1 Q. And this is into evidence as Exhibit 601. 2 Is this documentation evidence that Johnson & 3 Johnson had regarding a way to identify asbestos using 4 the methods that you've been utilizing for the past few	1 Q. And we already showed some examples of this. 2 Is this the difference between platy talc and 3 fibers and bundles and how they could appear under the 4 TEM?
1 Q. And this is into evidence as Exhibit 601. 2 Is this documentation evidence that Johnson & 3 Johnson had regarding a way to identify asbestos using 4 the methods that you've been utilizing for the past few 5 years now? 11:23:19	1 Q. And we already showed some examples of this. 2 Is this the difference between platy talc and 3 fibers and bundles and how they could appear under the 4 TEM? 5 A. Yes. This is an actual TEM of a cosmetic talc 11:26:20
1 Q. And this is into evidence as Exhibit 601. 2 Is this documentation evidence that Johnson & 3 Johnson had regarding a way to identify asbestos using 4 the methods that you've been utilizing for the past few 5 years now? 11:23:19 6 A. Correct. It's not exactly like they're doing,	1 Q. And we already showed some examples of this. 2 Is this the difference between platy talc and 3 fibers and bundles and how they could appear under the 4 TEM? 5 A. Yes. This is an actual TEM of a cosmetic talc 11:26:20 6 sample. And all these little plates here are talc.
1 Q. And this is into evidence as Exhibit 601. 2 Is this documentation evidence that Johnson & 3 Johnson had regarding a way to identify asbestos using 4 the methods that you've been utilizing for the past few 5 years now? 11:23:19 6 A. Correct. It's not exactly like they're doing, 7 but the whole concept of how it's being done is like	1 Q. And we already showed some examples of this. 2 Is this the difference between platy talc and 3 fibers and bundles and how they could appear under the 4 TEM? 5 A. Yes. This is an actual TEM of a cosmetic talc 11:26:20 6 sample. And all these little plates here are talc. 7 Then you have an asbestos fiber that goes along where
1 Q. And this is into evidence as Exhibit 601. 2 Is this documentation evidence that Johnson & 3 Johnson had regarding a way to identify asbestos using 4 the methods that you've been utilizing for the past few 5 years now? 11:23:19 6 A. Correct. It's not exactly like they're doing, 7 but the whole concept of how it's being done is like 8 ours.	1 Q. And we already showed some examples of this. 2 Is this the difference between platy talc and 3 fibers and bundles and how they could appear under the 4 TEM? 5 A. Yes. This is an actual TEM of a cosmetic talc 11:26:20 6 sample. And all these little plates here are talc. 7 Then you have an asbestos fiber that goes along where 8 you're pointing to. And then below it, I believe that
1 Q. And this is into evidence as Exhibit 601. 2 Is this documentation evidence that Johnson & 3 Johnson had regarding a way to identify asbestos using 4 the methods that you've been utilizing for the past few 5 years now? 11:23:19 6 A. Correct. It's not exactly like they're doing, 7 but the whole concept of how it's being done is like 8 ours. 9 We don't use a rubber plug because we use	1 Q. And we already showed some examples of this. 2 Is this the difference between platy talc and 3 fibers and bundles and how they could appear under the 4 TEM? 5 A. Yes. This is an actual TEM of a cosmetic talc 11:26:20 6 sample. And all these little plates here are talc. 7 Then you have an asbestos fiber that goes along where 8 you're pointing to. And then below it, I believe that 9 was another I think that was another cosmetic talc
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	4558	4560
1	distinguish between a potential talc fiber and a	1 fraudulent additions of asbestos in those 2017 samples?
2	potential anthophyllite fiber or bundle by turning the	2 A. No. That would be really difficult to do.
3	sample to get another orientation of the crystal.	3 Q. Did you see did you do a particle size
4	And for tale, if you turn the fiber and get a	4 distribution with regards to those samples and compare
5	diffraction pattern say you have your fiber is 11:27:54	5 it to published literature? 11:30:42
6	perpendicular to the electron beam. Well, the talc	6 A. I compared the size distribution from the
7	the diffraction pattern for talc will give you what you	7 those samples to an off-the-shelf Johnson & Johnson
8	see there.	8 sample that we purchased, and the size distribution of
9	Now, if you rotate it the TEMs have	9 particulates was the same all the way through.
10	goniometers, so you can be at zero degree tilt, or you 11:28:11	10 We also looked at how how would somebody be 11:31:03
11	can get to almost you can get to 60 degrees. And if	11 able to get into a container of Johnson & Johnson,
12	you rotate that talc fiber and get a diffraction	12 getting the top off it without damaging it. And it's
13	pattern, it will be identical to that.	13 impossible. Those tops are put in very specifically so
14	If you do that to anthophyllite and I think	14 they never come off.
15	we have some examples of it it will be different 11:28:30	15 You can't and I had people around here try 11:31:22
16	than your first diffraction pattern. That's the way	16 to pull a top off. Got some of the young men who
17	you distinguish the two. Otherwise, it's fairly easy	17 thought they were very strong, and couldn't do it. The
18	to distinguish between them.	18 only way you can get the top off is to use a little pry
19	Q. We may talk about the chemical distinction	19 device, and it leaves a track. We check every
20	between anthophyllite and talc in a little bit. 11:28:45	20 container. 11:31:44
21	By the way, with regards to your historical	21 Then you go, well, maybe they put it through
22	involvement, in 2017, did you know Johnson & Johnson	22 the holes, which would be a feat. Number one, you'd
23	had museum samples historical museum samples of	23 have to know which mine it was from to get the right
24	their products?	24 asbestos in it, and you'd have to put the amount in in
25	A. No, I did not. 11:29:00	25 microgram measurements in order to get what would look 11:32:00
	4559	4561
1	Q. Did you learn later, in 2018, that they had	1 like it belonged.
2	historical museum samples?	2 I had the opinion back then, and I still have
3	A. Yes, sir. They had museum samples going all	3 the opinion that these containers cannot be cannot
4	the way back to I think the earliest one I saw may	4 be opened and have the right asbestos go in it at the
5	be sometime in 1910 or 1918, all the way up to samples 11:29:15	5 right concentrations, what you would expect. It's just 11:32:20
6	from their current the mine that they're currently	o impossible.
7	using in China. I think I saw all the way up to 2013	7 Q. Has Johnson & Johnson accused those samples of
8	or 2014.	8 being contaminated in some fashion?
9	Q. So early and before 2018, did you test do	9 A. Yes. Every one of them. Everything from
10	some testing in 2017 on bottles you got from 11:29:37	10 somebody has opened them and put some in and put 11:32:36
11	collectors, bottles you got from my law firm, bottles	11 somebody else's material to it sat in an attic for
12	you got from other law firms that weren't part of the	12 35 years that had vermiculite open, and that's where
13	museum samples?	13 the tremolite came from. And that's ridiculous because
14	A. Yes, sir. A lot of them a lot of them were	14 the tremolite I'm sorry, go ahead.
15	either from collectors or eBay samples or actual 11:29:54	15 Q. So let's do this. Let's set those 2017 11:32:53
16	samples that the client still had, the mesothelioma	16 collector samples and eBay samples and samples from my
17	clients still had that were sent to our lab.	17 law firm to the side, and let's talk about the Johnson
18	But they were all we categorize them as all	18 & Johnson museum samples. Okay?
19	nonhistorical, meaning they didn't come from J&J they	19 Did you get samples many samples many,
20	came from other sources. 11:30:13	20 many samples through the litigation process from 11:33:11
20		21 Johnson & Johnson's historical museum bottles?
	Q. Okay. I'm going to focus a lot of my questions	
21	Q. Okay. I'm going to focus a lot of my questions on testing on museum samples today. But let me just	22 A. Yes.
21 22		
21 22 23	on testing on museum samples today. But let me just	22 A. Yes.

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4562	4564
1 mine.	1 tremolite-actinolite and/or anthophyllite.
2 So we were able to find, I think for the	2 And the TEM showed that it was mostly
3 Italian mine, maybe 55 percent of them were positive.	3 anthophyllite and some tremolite-actinolite. Now we
4 From the Vermont mine, I think approximately	4 get down to approximately less than 0.1 percent. That
5 83 percent of them were positive for asbestos. 11:33:41	5 doesn't mean less than in PLM. Doesn't mean less 11:36:49
6 Q. This is we're going to go through some	6 than that it's below our detection limit. That
7 examples. We're obviously not going to go through them	7 should have been 0 0.001, because that's the range.
8 all because we got time limits.	8 And then for PLM, we used heavy liquid density
9 But this 1978 museum sample, was it positive	9 separation, primarily the method that Alice Blount
10 for asbestos? 11:33:55	10 published in a peer-reviewed publication, and did the 11:37:20
11 A. It was, two different samples. Both samples	11 same thing.
12 showed to be positive. One sample had one structure	So at times, we will see the polarized light
13 one asbestos anthophyllite fiber in it, because	13 microscope finding it, say, in Sample 009 where the TEM
14 that's our detection limits. Our detection limits run	14 didn't. And there is a reason for that. Because the
15 between 6- and 7- to 8,000 fibers per gram. The second 11:34:14	15 TEM sees a different population of fiber sizes that 11:37:36
16 one had three in it.	16 and the PLM can't see what the TEM finds, and the TEM
So in order for us to find three fibers, the	17 can't see what the PLM finds because you're looking at
18 concentration has to be in the low 20,000s, and for us	18 a much bigger structure.
19 to find one fiber, that's our detection limit.	19 Q. And when you do this analysis, you in your
20 Q. Then can you calculate the number of grams 11:34:31	20 laboratory, you do detailed documentation; you take 11:37:56
21 number of fibers per gram and how many how many	21 photographs; you take measurements; you take images of
22 grams are there in an ounce?	22 the chemistry and put it in a report so you can turn it
23 A. Yes. So you have 28.4 grams in an ounce. You	23 over to Johnson & Johnson?
24 could just use 28. And that's 14 ounces. So that's 14	24 A. Yes, sir, I do.
25 times 28, because every ounce has approximately 28 11:34:51	25 Q. I'm going to talk about some examples. 11:38:07
4563	4565
1 has 28 grams. And if you have 7,000 fibers per gram,	1 This is a 1978 example. This is a January 9,
2 14 times 28 times 7,240, let me just round it off to	2 2019 report, Sample M69042-002; correct?
3 7,000, that will tell you approximately the number of	3 A. Correct.
4 asbestos fibers in that container. And you can do the	4 Q. And you're applying that three-step protocol.
5 same with 22,000 or any of our results. 11:35:18	5 What does this is this the morphology? 11:38:32
6 Q. And the 1978, that would be Vermont talc;	6 A. Yes, sir. This is the morphology. And what
7 correct?	7 you're looking at on the right-hand side is the edge of
8 A. Yes, sir.	8 one of the grids.
9 Q. Now, did you also, in 2018, get ten additional	9 Now, the grid opening itself is 100 micrometers
10 museum samples that were dated 1967 to 1985? 11:35:35	10 by 100 micrometers in width and length. So it's 11:38:48
11 A. We did. Those, again, were Johnson & Johnson	11 literally a square.
12 historical samples.	Now, what you see is the what looks like a
13 Q. And these are not anything off the eBay or from	13 very large fiber. And I think, actually, it is a
14 any collector or anything like this; this is from	14 bundle, when you'll see some more photographs. And
15 Johnson & Johnson; right? 11:35:54	15 what it's laying on is a replica film of the filter. 11:39:09
16 A. That is correct.	So that's a polycarbonate filter, and those
17 Q. And did you find asbestos in 70 percent of	17 little holes are the pores on that filter, but it's not
18 those samples?	18 the filter itself. You can't look at a sample with the
19 A. Yes, sir, we did.	19 filter in the TEM. It can't go through the filter.
20 Q. And if you could explain what we're seeing 11:36:03	20 So you have to take the filter section, put it 11:39:31
21 here, the concentration and the fiber type.	21 into a carbon coater. It's actually carbon rods that
22 A. Well, the concentration would be on the fibers	22 are high voltage, and the carbon will sputter. It goes
23 per gram of what our results were for the transmission	23 into almost like a plasma, and it coats that filter to
24 electron microscope. So in this case 1, 2, 3, 4,	24 a thickness of I think it's 100 angstroms, which
25 5 6 out of the 10 were positive for both 11:36:25	25 means it's probably about 10 atoms thick. 11:39:58

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4574	4576
1 MR. SATTERLEY: Back when we were in the	1 Well, this was a 9-ounce bottle. So on a
2 courthouse, we'd occasionally have a missing witness,	2 9-ounce bottle, what did you determine regarding the
3 and we'd have to go track them down, just like this.	3 amount of asbestos structures?
4 THE COURT: All right. We have all the jurors.	4 A. That there were 16,278,570 asbestos structures
5 Okay. 12:03:32	5 in that particular bottle if it was full. 12:06:11
6 MR. SATTERLEY: Your collar is still not fixed,	6 Q. And from an exposure standpoint, is being
7 Dr. Longo.	7 exposed to 16 million over 16 million asbestos
8 THE WITNESS: Oh, thank you. I appreciate	8 structures from one bottle is that significant, in
9 that.	9 your view?
10 MR. SATTERLEY: Are we ready to proceed? 12:03:46	10 A. If you used that whole bottle, that's what 12:06:26
11 THE COURT: I think we are.	11 would be released and some portion of what's in the air
12 Go ahead, Mr. Satterley.	12 and what gets on the ground. And the answer to that is
13 MR. SATTERLEY: If we could screen share the	13 yes.
14 presentation again.	14 Q. Now, we talked about the methods that we
15 BY MR. SATTERLEY: 12:03:55	15 talked about Step 1, briefly. 12:06:37
16 Q. Dr. Longo, can you see where we left off?	16 Step 2, the EDX or EDXA from the AHERA method,
17 A. Yes, sir, I can.	17 the chemistry if you could briefly explain the
18 Q. We were talking count sheets and the grid	18 Step 2, the chemistry?
19 openings.	19 A. Well, in Step 2, we analyze each particular
Based upon this particular sample that we were 12:04:10	20 there were seven structures each particular 12:06:57
21 talking about, M69042, the museum sample, did you	21 structure itself to see what the ratio of the
22 identify asbestos, seven different asbestos bundles in	22 primary elements that you're going to find; the
23 this sample?	23 magnesium, the silicon.
24 A. Yes, sir, we did.	24 In this particular case, we have a little bit
25 Q. And would they meet the definition of asbestos 12:04:26	25 more iron, and that well could be cummingtonite versus 12:07:12
4575	4577
1 under all the standards and regulations we've been	1 anthophyllite. We don't try to distinguish the two
2 talking about?	2 since they're both regulated asbestos.
3 A. Yes, they did.	3 Q. And so did J&J's expert, Dr. Sanchez, criticize
4 Q. So trying to understand to calculate the how	4 you and say, "This isn't anthophyllite; this is
5 many asbestos structures in a bottle. Can you do that 12:04:40	5 actually cummingtonite"? 12:07:33
6 at a particular detection limit?	6 A. Yes, he did.
7 A. Yes, at a detection limit or how much you	7 Q. And has he done that repeatedly regarding many
8 found. In this case, we had 63,800 asbestos structures	8 of your samples that when you have anthophyllite
9 per gram of the cosmetic talc in that Johnson's Baby	9 identified, he says, "Because there's iron there at
10 Powder container. 12:04:59	10 that level, that should be called cummingtonite"? 12:07:44
11 Q. So if you wanted to figure out how much is in	11 MR. DUBIN: Objection. That's not the basis
12 that bottle, you took the 63,800, times it by 28.4,	12 for him saying that.
13 that would determine how much is in each gram how	13 MR. SATTERLEY: That's one of the basis. You
14 many asbestos bundles are in each gram of baby powder;	14 can cross-examine, Mr. Dubin.
15 correct? 12:05:13	15 BY MR. SATTERLEY: 12:08:00
16 A. Well, no. We've already calculated how many	16 Q. Dr. Longo?
17 grams. To multiply it by 28.4 we just used 28 to be	17 A. Well, he has on some of them.
18 a little conservative. That will tell you how many	But in order to know for sure, you'd have to do
19 asbestos structures per ounce in the container.	19 zone axis diffraction, which we don't do. It's not
20 Q. Okay. I'm sorry. For each ounce. 12:05:33	20 required. And because cummingtonite would be regulated 12:08:13
So if you have a 14-ounce container, you have	21 asbestos, there is really no need to.
22 63,800 times 28.4 times 14?	22 And I think in all my reports, I've said that
23 A. Correct.	23 it could be either/or in some cases.
Q. And so doing that calculation, did you	Q. And we'll get to zone axis in a little bit when
25 determine 12:05:54	25 we do selected area electron diffraction. 12:08:26

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4550	4500
4578  Step 3 here we are this is to verify the	4580 1 anthophyllite are substantially similar, very close?
2 pattern by measurement or comparison of the pattern.	2 A. Yes, sir.
3 Is there any requirement that you do what you	3 Q. But the distinguishing factor between talc and
4 just referred to as, quote, zone axis measurements?	4 anthophyllite asbestos is the diffraction pattern, what
5 A. No, there is none, not in any of the 12:08:44	5 we're seeing? 12:11:15
6 regulations.	6 A. Yes. In the protocol the ISO protocol tells
7 The only time you see that is in the EPA	7 you that that's how you should do it.
•	
8 Level 3, that draft protocol, but that's back in 1984,	1 07
9 and it's not required.	9 appearance of the fibrous talc with the diffraction
Q. And that draft protocol, was that written by 12:08:58	10 pattern that is clearly a talc diffraction pattern? 12:11:28
11 George Yamate, the fellow we saw in that picture	11 A. Correct.
12 earlier? He was working for you?	12 Q. And is that the these dots in this order
13 A. Yes, sir.	13 here?
Q. Do any of the regulations or standards require	14 A. Yes. They call it a hexagonal pattern.
15 these zone axis measurements that Dr. Sanchez 12:09:16	15 Q. And that's different than the amphiboles or 12:11:45
16 criticizes you for?	16 the anthophyllite that we see here. It doesn't have
A. Not for these type of analysis, no.	17 the diffraction pattern at all; correct?
18 Q. So this is zone axis selected area electron	18 A. It doesn't have a hexagonal diffraction
19 diffraction. Explain we saw the talc one earlier	19 pattern. And if that was fibrous talc, when we rotated
20 that had the little dots in a little almost like a 12:09:30	20 it, the fibrous talc would give you the exact same 12:11:59
21 circle almost. What is this?	21 diffraction pattern.
A. Well, this is this is a diffraction	22 So
23 pattern a selected area electron diffraction pattern	23 Q. And this the ISO standard says talc the
24 of one of the asbestos structures where we have taken	24 diffraction of talc produces a pseudohexagonal pattern
25 one pattern and then we turned the turned the 12:09:48	25 that does not change as the fiber is tilted using the 12:12:17
4579	4581
1 goniometer to get a different angle to distinguish it	1 goniometer
2 from talc.	2 A. Goniometer.
3 If you do that with fibrous talc, the	3 Q. Okay.
4 pattern and you can't really see it. You've got	4 and anthophyllite asbestos, on the other
5 your "Step 3" over it. 12:10:03	5 hand, produces assorted spots. 12:12:28
6 Q. Let me I got it covered. Let me see if I	6 Is that what you are explaining with these two
7 can move it real quick.	7 diffraction patterns?
8 THE COURT: I wonder if they teach this in law	8 A. Yes.
9 school now	9 Q. So based upon the three-step process
MR. SATTERLEY: They don't. I don't think so. 12:10:26	10 morphology, the appearance; the chemistry, Step 2; and 12:12:41
1 THE COURT: PowerPoint adjustments.	11 the diffraction pattern has anthophyllite asbestos
MR. SATTERLEY: Well, they might.	12 been documented in Johnson's Baby Powder?
But now my PowerPoint is not let me	13 A. Yes.
There we go. Let's see if I can get it back	14 Q. Has cummingtonite asbestos been documented in
15 now. 12:10:33	15 Johnson's Baby Powder? 12:12:55
There we go.	16 A. It has.
	17 Q. And have you complied with the counting rules
THE WITNESS: There we go.	· · · · · · · · · · · · · · · · · · ·
THE WITNESS: There we go. And so you can see from the example in the	18 and the recording rules with regards to the
C	
And so you can see from the example in the	18 and the recording rules with regards to the
And so you can see from the example in the right-hand side and the example in the left-hand side	18 and the recording rules with regards to the 19 identification of asbestos in your testing?
And so you can see from the example in the right-hand side and the example in the left-hand side that it's two different diffraction patterns, and that 12:10:47	<ul> <li>18 and the recording rules with regards to the</li> <li>19 identification of asbestos in your testing?</li> <li>20 A. Yes, sir, we have.</li> <li>12:13:11</li> </ul>
And so you can see from the example in the right-hand side and the example in the left-hand side that it's two different diffraction patterns, and that 12:10:47 tells you that it's absolutely not talc fibrous	18 and the recording rules with regards to the 19 identification of asbestos in your testing? 20 A. Yes, sir, we have. 12:13:11 21 Q. And does the asbestos identification protocol
And so you can see from the example in the right-hand side and the example in the left-hand side that it's two different diffraction patterns, and that 12:10:47 tells you that it's absolutely not talc fibrous talc, because the chemistry is pretty close on fibrous	18 and the recording rules with regards to the 19 identification of asbestos in your testing? 20 A. Yes, sir, we have. 12:13:11 21 Q. And does the asbestos identification protocol 22 have identification of nonasbestos?

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4582	4584
1 asbestos.	1 those products?
2 Q. So when any of these three steps are not	2 A. Yes, sir, we have. In this case, the accessory
3 satisfied, it would be nonasbestos.	3 mineral tremolite, which is an accessory mineral from
4 So all of the times when you've identified	4 chrysotile that is dug out of the ground up in Canada.
5 asbestos in Johnson's Baby Powder, have you met these 12:13:43	5 Q. And you have on here, also, MVA. Is that 12:16:13
6 three steps?	6 another laboratory that has analyzed asbestos products
7 A. Every one of the historical samples we have	7 where asbestos was intentionally added?
8 I think there was one eBay sample where we couldn't	8 A. Yes.
9 but it was tremolite, and we couldn't get the second	9 Q. And do these the morphology of these, the
10 diffraction pattern, and we may have left it because it 12:14:00	10 appearance of these, are they substantially similar to 12:16:30
11 was tremolite	11 the asbestos that you find in Johnson & Johnson
12 Q. Well, Dr. Longo, I told you earlier	12 product?
13 A. I'm sorry. I'm sorry.	13 A. They're the same.
14 Q we weren't going to rely upon the eBay	14 Q. So, for example, this is a Johnson & Johnson
15 samples. We were going to 12:14:09	15 sample where tremolite asbestos was found, sample 12:16:46
	1
16 A. That's right.	16 M68503-026, October 24th, 2018.
17 Q. So with regards to all the J&J historical	17 Morphologically, is this asbestos?
18 samples, all the samples they produced and splits, when	18 A. Yes.
19 you called something asbestos, did it meet the	19 Q. Additional asbestos-added products. Gaskets
20 three-step protocol? 12:14:22	20 and various gaskets and packings. Are these 12:17:09
21 A. It did.	21 photographs of asbestos, tremolite, actinolite asbestos
22 Q. And did it meet the protocol not only with	22 in asbestos-added products?
23 AHERA, but the ISO and the ASTM?	23 A. Yes, sir.
24 A. Correct, it did.	Q. Morphologically, does this let me go back to
25 Q. And would it be regulated asbestos? 12:14:35	25 that one. 12:17:24
4583	4585
1 A. Yes.	1 The is this tremolite in a Johnson & Johnson
2 Q. And did it meet the Johnson & Johnson protocol,	2 product, M69751?
3 the TM7024 protocol?	3 A. Yes, sir.
4 A. It did.	4 Q. And that's December the 18th, 2018. Is that
5 Q. And here, we have the Johnson & Johnson 12:14:51	5 Where is my pointer at? 12:17:40
6 protocol. It is Exhibit 811.	6 Can you see talc present also?
7 (Whereupon, Plaintiff's Exhibit 811 was marked	7 A. You have the very you have talc plates,
8 for identification.)	8 maybe some thicker talc plates, but there's talc in
	9 that sample.
9 Under the Johnson & Johnson protocol of	•
10 asbestos, did the structure you identified meet their 12:15:02	10 Q. Additional examples. Reports and findings of 12:17:55
11 definition?	11 asbestos in intentionally added products.
12 A. Well, it went beyond their definition because	Morphologically, does the asbestos in Johnson &
13 all those structures were at least had to be at	13 Johnson's product does it appear similar under the
14 least 5 to 1. So it's more conservative than the	14 microscope to what you see in intentionally added
15 Johnson & Johnson protocol. 12:15:17	15 asbestos products? 12:18:14
16 Q. And did it did you document fibers, bundles,	16 A. Yes, sir, it is.
17 clusters, or matrices whenever they're identified under	17 Q. And this one is November the 1st, 2018, and
18 the microscope?	18 this is is this oh where am I at here? There
19 A. You never see clusters or matrices, but it's	19 we go.
20 all fibers and bundles, and the answer is yes. 12:15:36	This would have both anthophyllite and talc? 12:18:31
21 Q. So I want to go through a visual comparison of	21 A. Yes, sir, it does, and over to the left there
22 fibers found in talc to asbestos fibers found in	22 is a talc plate.
23 traditional asbestos products.	23 Q. So is this an example of talc anthophyllite, a
24 And has your lab found asbestos in various	24 bundle growing together in the Johnson & Johnson
25 products where asbestos was intentionally added in 12:15:55	25 A. We don't know if it's growing together or it's 12:18:50

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4590	4592
1 A. It was plus or minus 6 percent, which is very	Q. And did they according to the reports you
2 good. Typically, you're allowed error rates up to plus	2 reviewed, did they determine did they do an
3 or minus almost 20 percent. So we did very well on it.	3 investigation and determine that their finding
4 Q. What is this?	4 chrysotile in Johnson's Baby Powder was a result of lab
5 A. This is a laminar flow hood where all the 12:24:30	5 contamination? 12:27:05
6 samples are prepared. And we have a number of these	6 A. That's what they stated. It didn't make any
7 around. And it's designed to specifically to make	7 sense, but that's what they stated.
8 sure you don't have cross-contamination when you	8 Q. Let's talk about some of the results of J&J
9 prepare your samples so that you don't literally infect	9 testing. And did you produce results of your testing
10 it with an outside source of asbestos. 12:24:48	10 from J&J talc, the baby powder, Shower to Shower, with 12:27:21
So whenever we do TEM analysis, we always run a	11 regards to samples you tested in 2018 and 2019 and
12 standard blank along with it that's prepared the exact	12 coming forward?
13 same way, except no talc, so that and we always	13 A. Yes, sir, we did.
14 analyze it to make sure we haven't introduced anything	14 Q. And did you group them by decades; for example,
15 into the sample. 12:25:05	15 the 1960s? 12:27:40
16 Q. Is there any evidence, based upon your all's	16 A. Correct.
17 analysis, that all this asbestos in Johnson's Baby	17 (Whereupon, Plaintiff's Exhibit 1249 was marked
18 Powder was came from contamination, outside, you	18 for identification.)
19 know, somewhere else in your laboratory?	19 BY MR. SATTERLEY:
20 A. Every sample we have ever prepared in cosmetic 12:25:18	20 Q. And this is Exhibit 1249. 12:27:43
21 talc, and even going back I don't know if we've ever	21 Are these photographs Exhibit 1249, are
22 had contamination in the lab. You should not have it.	22 these all photographs of asbestos documented in J&J
23 Q. You recall we talked in October	23 archive samples?
You should not have lab contamination; right?	24 A. Yes, it is, from 1960.
25 A. No, you should not. 12:25:40	25 Q. And do they fairly and accurately represent 12:28:00
4591	4593
1 Q. And have you ever been have you ever seen	1 photographs that your laboratory took regarding the
2 any evidence that any of these samples were a result of	2 asbestos in Johnson & Johnson samples from their
3 contamination?	3 museum?
4 A. As I said, no. Every TEM sample that we've	4 A. Yes, sir, it is.
5 ever run and I can go back all the way through to 12:25:52	5 Q. 1970s, are these some representative samples of 12:28:11
6 2017, late 2016. Every TEM sample had a process blank	6 asbestos, photographic evidence of asbestos documented
7 where you prepare the process blank in the same	7 in J&J museum samples?
8 environment, the same thing, except you're not using	8 A. Yes, sir, it is.
9 any talc. All the you know, all the heavy liquid	9 Q. And do they fairly and accurately represent
10 and all the process. 12:26:13	10 photographs of asbestos as your lab documented? 12:28:27
And we've never found one asbestos fiber in	11 A. Yes.
12 well over hundreds of these sample preps, or talc or	12 (Whereupon, Plaintiff's Exhibit 1252 was marked
13 anything. They've always been clean.	13 for identification.)
14 Q. You recall we were talking about the AMA	14 BY MR. SATTERLEY:
15 testing from October 2019 of the off-the-shelf baby 12:26:31	15 Q. This is Exhibit 1252. 12:28:33
16 powder where they found the chrysotile asbestos?	16 Additional 1970 results. Are these asbestos
17 Do you recall that?	17 from J&J samples?
18 A. Yes.	18 A. Yes, it is.
19 Q. And they also found the mica.	19 Q. Do they fairly and accurately represent
20 Do you remember that? 12:26:39	20 document as photographs of asbestos your lab took 12:28:55
21 A. That's correct.	21 regarding these particular samples?
22 Q. Did RJ Lee test the sample and find chrysotile	22 A. Yes, sir, it does.
23 in the sample?	23 Q. That's Exhibit 1252.
24 A. The exact same sample, they found chrysotile in	24 1980s. The 1980s. Are these photographs
■	1 0 1

4596 A. The bottom row would be the actual samples from 1 that your lab took? A. Yes, sir, it is. 2 the 1990s, but I believe the -- I can't really see, but 3 (Whereupon, Plaintiff's Exhibit 1253 was marked 3 I know the top row is from Imerys, the milled material for identification.) 4 that was -- before they go put it in a container. 5 BY MR. SATTERLEY: 12:29:16 Q. And all of these photographs and the underlying 12:31:36 Q. And this is Exhibit 1253. 6 documentation, have you turned over for Johnson & Do these fairly and accurately represent 7 Johnson to have and ask you questions about them 8 previously? 8 photographs of the asbestos in Johnson & Johnson talcum 9 powder products? A. Yes, we have. A. Yes, sir. 12:29:26 12:31:47 Q. So interlab comparisons using different O. This next slide, are these additional 11 methodologies, I want to talk about that for a few 12 photographs of asbestos in Johnson & Johnson archive 13 samples? 13 J3 Resources. We are going to hear from Lee A. From 1980, that is correct. 14 Poye later in the trial. Did you and Mr. Poye compare Q. The whole decade of the '80s, right, not just 12:29:36 15 results from your-all's analysis of talcum powder? 12:32:08 16 that one year? A. Yes. We compared our analysis with their A. No. It's all the different years from the 17 analysis and looked at what the validation was for a 18 certain set of samples where we went in and validated 18 Johnson & Johnson historical samples where they had 19 samples from the 1980s. We're missing a few years here 19 his analysis. We got his grids and validated his 20 and there, and I don't remember if we did in the 1980s. 12:29:50 20 analysis, but we put our own definition of it; either 21 But it was what they had for the 1980s. We've got 21 it was a bundle, a fiber, or -- or regulated asbestos. 22 samples -- we asked for samples to represent the entire And when we compared the results for what they 23 decade. 23 called fiber bundles and which ones they called 24 asbestos versus which ones we called asbestos, we had a Q. And that's Exhibit 1253. 25 25 greater than 90 percent validation rate. The 1990s. Do these photographs -- are these 12:30:04 4595 4597 1 photographic evidence of asbestos that your laboratory Q. And so did J3 Resources look at your grids and 2 found for 1990s Johnson & Johnson archive samples? 2 he looked at your grids, and you guys determined what 3 were fibers, what were bundles, what were cleavage A. I believe so, yes, sir. (Whereupon, Plaintiff's Exhibit 1255 was marked 4 fragments? for identification.) 12:30:17 A. Correct. 12:33:08 6 BY MR. SATTERLEY: Q. And is this a summary of verified analysis of Q. And that's Exhibit 1255. 7 22 structures on six historical Johnson's Baby Powder The 2000s. Are these photographic evidence of 8 products? 9 Johnson & Johnson asbestos that you documented -- your A. Correct. Q. And then we have another summary of verified 10 laboratory documented from the 2000s? 12:30:33 A. Correct. And I believe -- I'm looking at 11 analysis of 22 asbestos structures with regards to 12 these. These actually came from Imerys from milled 12 whether it's verified, the type of asbestos, and 13 talcum powder that was destined, as I understand, to 13 whether it's a fiber or a bundle? 14 Johnson & Johnson for both the '80s -- for the '90s and A Correct Q. And so what were the results of the validation? 12:33:39 (Whereupon, Plaintiff's Exhibit 1257 was marked 16 A. I believe they were -- for fiber bundles, we 17 for identification.) 17 only had one, two, three -- four disagreements. I 18 BY MR. SATTERLEY: 18 don't remember what the percentages -- it was O. So this exhibit, this is 1257. This is from 19 80 percent, right over there on the side. 20 the milled samples their talc supplier Imerys provided? 12:30:52 Q. So 91 percent, 20 out of 22, were verified by 12:33:58 A. Correct. And I didn't get a close look at the 21 J3. And then out of the 20, 80 percent were 22 1990s, but I believe it's the same for them, too. 22 identified -- both MAS and J3 agreed upon the asbestos Q. Can you see the numbers? Are those --23 structure type; correct? 24 A. We have --A. Correct, either bundle or fiber. Q. 1990s is Exhibit 1255. Q. And J3 confirmed 18 out of 20 as bundles; 12:34:16

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1 correct. 1 increase its resolution. 2. A. Correct. We said 16 out of 20 were bundles. So there was the difference between the two 3 Q. By the way, do you call it asbestos even when 3 labs on how they analyzed it. We're using the same 4 it's not asbestos? 4 method, but we're spending a lot more time. A. No. We call it asbestos when it meets the one, 12:34:33 12:37:29 Like the FDA said in their proposed method, 6 two, three steps that all those protocols say that you 6 PLM, it would take a half a day to analyze it. We 7 don't -- some of them take more than a half a day. Q. Mr. Dubin used this slide and said you call it 8 Some of them take much less. 9 asbestos even if it's not asbestos. In the equipment, we put a high-resolution Do you do that? 12:34:51 10 camera and put it on a monitor. And, also, we changed 12:37:45 A. No, we do not do that. If it meets Steps 1, 2, 11 out the -- one of the objective lenses to give us much 12 3, we call it asbestos. 12 more better resolution. 13 Q. Did your lab verify J3 Resources' So it's really not fair to compare the two 14 identification of asbestos in the Shower to Shower 14 because we're doing more than what Lee Poye's lab --15 products? 12:35:13 15 and that's no criticism of Lee Poye's lab, because 12:38:01 A. Yes, sir. We both agreed that it had asbestos 16 we're doing a lot of research to increase the 17 in it. We had a slight disagreement on a couple 17 sensitivity of what we're doing. 18 cleavage fragments, but 90 -- but the majority of what Q. And what does this show? 19 they called asbestos, we called asbestos. A. Well, this is the PLM scope we were using at Q. And the Shower to Shower products that had the 12:35:27 20 the time, where -- if you go over to the left, that's 12:38:20 21 years on them, are those all talc that was sourced out 21 on top of the microscope, and that's a high-definition, 22 of the Vermont talc mine? 22 high-speed camera. A. Yes, sir, it was. Let's see. I think the And then if you go to the right side, we have 24 latest one is 1986. That's still using Vermont talc. 24 that hooked to a high-definition monitor so that we can Q. So all of these products with asbestos in them 12:35:48 25 see the structures more and we can see more what 12:38:37 4599 4601 1 would be from Vermont talc; right? 1 normally may be unresolved. And if you go all the way over to the right, 3 3 the far right is a standard "DPlan 40X Objective." The other -- what -- the other thing that we 4 did here is that he was using heavy liquid density And on the left, is what they call a flat 5 separation, the same as us, so it's a good validation 12:36:01 5 objective, and it's aberration-corrected, meaning they 12:39:00 6 of the heavy liquid density method itself. 6 spend a lot of time machining the lenses and make them And, again, that's sample prep, which means 7 more -- can do better. 8 everything for TEM analysis. In fact, we've placed these microscopes now Q. This slide here, "PLM Lab Comparison," explain 9 with new state of the art, where all of the objectives 10 are flat. It doesn't have a tungsten light source 12:39:16 10 what this is. 11 anymore. It has LED light sources. And it comes with 11 A. This is actually TEM you're showing. 12 Q. Oh, my slide's wrong? 12 a much higher-definition camera. A. Yeah. We had eight positives when we did 13 So where these microscopes were doing very 14 standard PLM analysis, and J3 had no positives of the 14 well, the new ones increase the resolution four times. 15 set of samples. So we had eight more positives than 12:36:36 Q. And does your report describe the refractive 16 J3. 16 index that you use with PLM? 17 Q. And explanations for that? 17 A. Yes. This is the fluid that our analysts were A. One, when we analyze these samples, we can 18 taught to use by Walter McCrone. It goes back that 19 spend -- these particular samples -- anywhere from a 19 long, when he was teaching -- teaching the labs, and 20 little bit less than an hour, depending on how much is 12:36:54 20 it's what we use still today. 21 in there, all the way up to -- I think the longest 21 Q. And we'll talk about PLM in a little bit. 22 sample analysis was six hours. We're analyzing 22 This slide, the ISO 22262-1, does it talk about 23 the preparation of samples using a 1.605 for suspected 23 separate samples. 24 In order to do this work, we realized that the 24 tremolite or anthophyllite? 25 standard polarized light microscope needed to have --A. Yes. 12:40:19 12:37:13

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4602	4604
1 Q. Like I said, we have some photographs of PLM	1 Q. Now, the second question is, "Why are there so
2 photographs of asbestos in the talcum powder; right?	2 many 'nondetects' in the files of Johnson & Johnson and
3 A. Correct, for the amphiboles. And we'll talk a	3 so many 'nondetects' with regards to McCrone?" I want
4 little bit more about that. It's all we always use	4 to talk about that for a few minutes. Okay?
5 1.605. 12:40:33	5 A. Yes, sir. 12:43:07
6 Q. So under all these various standards and	6 Q. How many asbestos fibers need to be present in
7 regulations AHERA, ISO, ASTM, and the J&J	7 order to detect one fiber by TEM?
8 standard is there regulated asbestos in Johnson's	8 A. Using the methods without heavy liquid density
9 talcum powder products?	9 separation, it ranges from approximately 4 to 5 million
10 A. Yes. 12:40:48	10 up to 12 million fibers per gram or bundles before you 12:43:23
Q. What is this? What does this represent?	11 can detect one fiber using these old methods or
12 A. This represents a Figure 1 that's in the	12 methods without heavy liquid density, because these
13 Campbell document. And EPA did a survey across the	13 methods are still used today.
14 country, and where you see those areas that have lines	14 Q. And speaking of the preparation method, the
15 in them, that's where they say asbestiform minerals are 12:41:06	15 heavy liquid separation, have you reviewed Exhibit 546, 12:43:41
16 contained.	16 the 1973 Johnson & Johnson memo from Mr. Shelley
17 Q. Asbestiform minerals in the bedrock within the	17 Dr. Shelley?
18 areas that are shaded in those lines there?	18 A. I have.
19 A. Yes, sir.	19 Q. And do they talk about Professor Pooley's
20 Q. And in the original EPA document in 1974, do 12:41:21	20 process to remove the tremolite from the talc? 12:43:56
21 they talk about asbestos in Vermont and where asbestos	21 A. Yes, sir.
22 is located in Vermont?	22 Q. And they describe it as being "a valuable
23 A. Yes, sir, they do.	23 patent, and we believe it should be actively pursued."
24 Q. And do they talk about Windsor Minerals in that	24 Do you see that?
25 1974 document? 12:41:37	25 A. Yes, sir, that's what they state. 12:44:09
4603	4605
1 A. They do. They talk about asbestos in Windsor	1 Q. And it may have well be valuable property;
2 County, which would be Windsor Minerals, and Windsor	2 right?
3 County is where one of the mines are that J&J uses.	3 A. Yes, sir.
4 The Argonaut Mine is in Windsor County.	4 Q. In your review of the Johnson & Johnson
5 Q. So this Campbell paper in 1977 is published by 12:41:57	5 historical documents, did they patent this and work on 12:44:17
6 the Bureau of Mines; correct?	6 this valuable property of the separation of tremolite
7 A. Yes, it was. I'm sorry.	7 from tale?
8 Q. The Department of the Interior?	8 A. No. Not only did they didn't patent it, when
9 A. Yes, sir, it was, by Campbell, who put that	
y 111 1 co, sii, it was, o'j campeen, who put that	
10 together primarily 12·42·11	9 they were asked by other manufacturers of asbestos if
10 together primarily. 12:42:11	9 they were asked by other manufacturers of asbestos if 10 they could use this technique, not not Pooley's 12:44:34
11 Q. And they cited to the EPA in 1974 for this map;	9 they were asked by other manufacturers of asbestos if 10 they could use this technique, not not Pooley's 12:44:34 11 technique, but the technique that the Colorado School
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4606	4608		
1 methodology that was developed back in the early 1970s?	1 when you only got because you're using a different		
2 A. No, sir. I didn't know they had worked it all	2 shampoo. It doesn't make any sense.		
3 out. Well, this is Pooley's method. The method that	3 Q. You said the double density method. Did you		
4 they worked out is the CSM method, Colorado School of 4 read their internal documents and understand what they			
5 Mines method they're consulting. 12:45:41	5 had developed with the Colorado School of Mines back in 12:47:55		
6 Q. We're going to talk about that method in a few	6 the '70s?		
7 minutes.	7 A. Yes.		
8 This next exhibit, Exhibit 632, November 26,	8 Q. And we'll talk about what you're doing with		
9 1974, this Johnson & Johnson memo says:	9 that in a little bit.		
10 "Review of experimental techniques for the 12:45:51	10 Sensitivity of the various methods. If you 12:48:03		
concentration of asbestos." It says, "Each of	11 could explain what we're seeing here about the various		
these experimental techniques warrants	12 methods.		
13 additional work. We have not been able to	13 A. Well, if you go to the J&J testing method, they		
pursue the concentration of asbestos minerals	14 had a requirement that it wasn't just finding one		
15 from talc because of a shortage of personnel 12:46:01	15 structure; you had to find four or you had to find 12:48:22		
16 and the low priority which had been set up for	16 at least four until you hit that fifth one and say it's		
17 the project."	17 countable now.		
18 Did you see any evidence after 1974 that they	18 Well, in order to have five, there to find		
19 pursued the concentration technique to find asbestos?	19 one fiber, it was around 10 million and something		
20 A. No, I have not seen any evidence of that. 12:46:16	20 fibers per gram just to find one. The sensitivity was 12:48:43		
21 Q. And then 1957, this is Exhibit 643. They write	21 horrible.		
22 to Dr. Rolle at Johnson & Johnson in England,	Now, their method also is if you found if		
23 Mr. Sloan, and says:	23 you found four tremolite fibers and one anthophyllite		
24 "We deliberately have not included a	24 fiber, they'd say, yeah, it has tremolite, but the		
25 concentration technique, as we felt it would 12:46:34	25 anthophyllite, it was unquantifiable. 12:49:00		
•			
4607	4609		
1 not be in worldwide company interest to do	1 So you had to find four of each type in order		
2 this."	2 to report them. So if you had four of each type, that		
3 Do you see that?	3 comes to 113 million asbestos fibers in order to say 4 all four there in the bottom, the tremolite, the		
<ul> <li>4 A. Yes, sir. I have that document also.</li> <li>5 O. Now, do you believe that the concentration 12:46:45</li> </ul>			
5 Q. Now, do you believe that the concentration 12:46:45	5 anthophyllite, the actinolite, and the chrysotile, was 12:49:20		
6 tashmique on the heavy liquid compaction technique			
6 technique or the heavy liquid separation technique	6 quantifiable; otherwise, it was unquantifiable.		
7 should not be used because you might miss some	6 quantifiable; otherwise, it was unquantifiable.  7 Q. So if we see reports that say NQ or		
7 should not be used because you might miss some 8 chrysotile?	<ul> <li>6 quantifiable; otherwise, it was unquantifiable.</li> <li>7 Q. So if we see reports that say NQ or</li> <li>8 nonquantifiable, you could have as much as 113 million</li> </ul>		
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1 Go ahead.	1 the the statistics of finding it repeatedly if you,
2 JUROR NO. 8: Yes, thank you, just to run to	2 say, have a million or 2 million are poor with these
3 the restroom.	3 kind of detection limits.
4 THE COURT: No problem. Go ahead. We'll be	4 Q. We told the folks on the jury about the
5 here. 12:50:40	5 positive FDA results in 2019 and the 1970s. 12:53:31
6 JUROR NO. 8: Thank you.	6 In 2010, did they test some Johnson's Baby
7 THE COURT: And then we'll go to quarter past.	7 Powder and say they were nondetects?
8 MR. SATTERLEY: Yes, Your Honor.	8 A. Yes. In 2010, AMA was using a detection limit
9 THE COURT: Anybody wants to stand up and	9 of approximately 12 million.
10 stretch, feel free to do that. And that's true in 12:51:09	When they did the analysis in 2018, I think it 12:53:50
11 general. It's good for us to be able to see you, but	11 was, they had looked at more grid openings, and their
12 feel free to stand up if it helps you pay attention.	12 detection limit was on the order of about 4 million.
13 JUROR NO. 8: Sorry about that. I'm back.	13 So they increased their detection limit, and they did
14 THE COURT: No problem.	14 find asbestos in that.
15 Mr. Satterley. 12:51:37	15 Q. So if you increase your detection limit by 12:54:06
16 (Whereupon, Plaintiff's Exhibit 1331 was marked	16 looking at more grid openings or spending more time,
17 for identification.)	17 that's one way to find that needle in the haystack?
18 MR. SATTERLEY: Just for the record, what I'm	18 A. Correct. Or a better way is to remove the
19 showing on the Elmo is Exhibit 1331, which is the total	19 haystack.
20 asbestos fiber concentration per gram of J&J baby 12:51:43	20 Q. The heavy liquid separation; right? 12:54:19
21 powder talc that would below the detection limit of	21 A. Yes, sir.
22 the TM7024 method.	22 Q. So some of the other reasons why we see
23 BY MR. SATTERLEY:	23 nondetects or nonquantifiable. Under the TM7024, is
24 Q. Is that correct, Dr. Longo?	24 there a time limit placed upon the analyst's work?
25 A. That is correct. 12:51:55	25 A. I believe it's one hour, one to two hours, 12:54:36
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1 Q. And you've done these calculations; correct?	1 something in that. The answer is yes.
2 A. Yes, sir.	2 Q. And is that a problem when you only look
2 A. Yes, sir. 3 Q. The full calculations was produced to Johnson &	2 Q. And is that a problem when you only look 3 when you're looking for carcinogens in a product, to
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464	5 464
1 Friday at 11:00. Or 1:00. Which was you prefer,	1 depo. I would hate, hate, hate to be finished, resting
2 Mr. Satterley.	2 my case and tell the jury, "I've got six more videos to
3 MR. SATTERLEY: Whatever counsel for J&J would	3 play, and for the next five days, you're going to watch
4 like. Either one is fine with the plaintiff.	4 videos."
5 MR. DUBIN: I guess we'll do 11:00. 13:36:31	5 MR. DUBIN: No one is trying to say we 13:38:30
6 But is there some sort of brief that we're	6 shouldn't have time with the Court, Mr. Satterley.
7 going to need to be responding to before we argue this?	7 What I said is, if you're filing a brief on something
8 I don't know. I mean, that's my concern about Friday.	8 that we're intending to argue about the brief to the
9 I don't understand. If there's a brief, we need to	9 Court, then we would need time to respond to it.
10 respond to it. 13:36:47	THE COURT: Let's go off the record and give 13:38:43
11 THE COURT: I think they need to figure out	11 Ms. Langley a break here.
12 what their position is exactly.	12
13 So we don't know.	13 (Whereupon, the proceedings
14 MR. SATTERLEY: Like I said, we can meet and	14 were concluded at 1:38 p.m.)
•	
	15
16 tomorrow. And I think we should we got we	16   17
17 need if the Court is available, whether or not you	
18 say don't file a brief, we don't file a brief, but we	18
19 need to lodge our objections.	19
Just as if Your Honor were to make rulings, as 13:37:10	20
21 Your Honor said, with regard to Musco, we've got to	21
22 make a record, because if Your Honor is going to allow	22
23 a nonexpert corporate rep to give expert opinion citing	23
24 to hearsay, we've got serious issues with regards to	24 25
25 that. 13:37:27	
464	
In addition, we have the beyond-the-scope	1 STATE OF CALIFORNIA ) 2 ) ss.
2 objection.	2 ) ss. 3 COUNTY OF ALAMEDA )
3 MR. DUBIN: Can you identify where you think	,
4 he's offering expert opinion testimony? Because	
	5 I FARLY K LANGLEY do hereby certify:
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1	SUPERIOR COURT OF THE STATE OF CALIFORNIA
2	COUNTY OF ALAMEDA
3	BEFORE THE HONORABLE STEPHEN KAUS
4	DEPARTMENT 19
5	VIA ZOOM CONFERENCE
6	000
7	CHRISTINA G. PRUDENCIO,
8	Plaintiff,
9	vs. No. RG20061303
10	JOHNSON & JOHNSON, et al.,
11	Defendants.
12	/
13	REPORTER'S TRANSCRIPT OF PROCEEDINGS
14	(Trial - William E. Longo, Ph.D.)
15	Thursday, July 1, 2021
16	Full Session
17	
18	
19	
20	Taken before EARLY K. LANGLEY, B.A., RMR, RSA CSR No. 3537
21	
22	
23	VOLUME 30
24	VOLUME 30
25	PAGES 4650 - 4832

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#### $\texttt{Case@23302895} \textbf{MSBK} \ \ \, \textbf{Dioo@34883} \ \ \, \textbf{Fffddd0061/04/222} \ \ \, \textbf{Ellitterdd0061/04/22288869220} \ \ \, \textbf{Dioesc}$

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6	Direct Examination By Mr. Satterley	4679
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8	Cross-Examination By Mr. Dubin	
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1 --000--2 PROCEEDINGS 3 --000--Thursday, July 1, 2021 - 8:25 p.m. 4 5 (Morning and Afternoon Combined) (The following proceedings were held in the 6 7 virtual breakout room with counsel only outside the 8 presence of the jury:) 9 THE COURT: All right. So we're on the record 08:25:52 10 outside the presence of the jury before court in the 11 Prudencio matter. Mr. Satterlev said we had a couple 12 of noncontroversial things to discuss. 13 MR. SATTERLEY: So the noncontroversial part of 14 it is, we've agreed to further meet and confer this afternoon, spend as much time as necessary and, 08:26:07 15 16 hopefully, narrow the scope of the objections, and then 17 have a follow-up with Your Honor tomorrow whenever it's 18 appropriate so that we can spend time going through the 19 transcript in a little bit more detail with Your Honor 08:26:22 **20** and explain some of our relative positions. 21 And so with that being said, I don't think we 22 have to make any arguments this morning or -- we, 23 obviously, disagree about, you know, certain aspects. 24 THE COURT: That's fine. I'm trying to -- so, 08:26:38 **25** I mean, we talked about this in the last trial --

- A. Yes, sir. And that's the -- that's the results they got when they changed the data a little bit.
  - Q. What do you mean, changed their data?
- A. Well, the lab that they hired to analyze the air samples called -- initially called the -- he found anthophyllite asbestos and initially called it anthophyllite asbestos and then was told by Exponent to change it to cleavage fragments.
- Q. So even at that level, .004, is that 80 times above the old background from the ATSDR from the 1980s?
  - A. Yes, sir, it is.

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12: 7:31 **20** 

12: 7:48 **25** 

12:16:35

- Q. Would that be substantial exposure, 80 times the background?
- A. Yes, sir. Anything over background is called a substantial exposure, even using a background concentration of most like -- of chrysotile at 4 zeros and a 5. So that is substantial exposure.
- Q. I'd like for you to assume -- I think you've read it -- Dr. Hopkins, one of the corporate representatives from J&J, testified that J&J's estimate was 4.5 fibers per cc.

Assuming that to be the case -- and you read his testimony -- is that 90,000 times above background?

- A. Yes, sir, it is.
- Q. A J&J diapering estimate of .18 fibers per

	1	cc you've seen that document; correct?
	2	A. Correct.
	3	Q. Is that 3,600 times above background?
	4	A. Yes, it is.
12:18:01	5	Q. Is that substantial exposure to asbestos from
	6	diapering a baby?
	7	A. It is.
	8	Q. And then the Gordon paper that you told us
	9	was the exposure assessment 1.9 fibers per cc from
12:18:15	10	asbestos from cosmetic talc?
	11	A. Correct.
	12	Q. And would that be 38,000 times above
	13	background, assuming a hypothetical background of
	14	.00005 fibers per cc?
12:18:29	15	A. Yes, sir.
	16	Q. And in your opinion, are all those substantial
	17	exposures to asbestos from cosmetic talc?
	18	A. Yes, sir, it is. With this hypothetical
	19	background or assuming that there really is
12:18:45	20	hypothetically, that there is asbestos in the air all
	21	the time.
	22	But I have testified in the past that, you
	23	know, the real level is going to be less than whatever
	24	the detection limit is with the sample you run. You're
12:19:00	25	not going to find background unless there is a source

	1	of asbestos.
	2	And you won't have sources of asbestos, of
	3	tremolite/anthophyllite, because of the lack of
	4	products out there, unless you have a house that may
12:19:1	₃ 5	have vermiculite loose insulation and you're up there
	6	disturbing it. But that means you have a source of
	7	asbestos.
•	8	Q. With regards to Ms. Prudencio, you evaluated
	9	that she was exposed to both Johnson & Johnson Baby
12:19:3	з 10	Powder and Longs Baby Powder when she was young;
	11	correct?
	12	A. That is correct.
	13	Q. And have you calculated the total personal uses
	14	based upon all the testimony you've read, all of the
12:19:4	9 15	interviews, all of the information you got?
	16	A. Correct. But that would include both the Longs
	17	and the and the J&J containers.
	18	Q. I think we're going to break it down in a few
	19	minutes.
12:20:0	4 20	A. Okay.
	21	Q. If you could talk us through this chart here.
	22	What's your opinions about her exposures?
	23	A. My opinions about her exposures, that between
	24	when her mother was diapering was changing her
12:20:1	8 <b>25</b>	diapers and bathing her, where she bathed her, and then

	Exhib <del>itxExhibitx20d16 to DatteSlatyeEleyl DradionatiDARTP1agePlageo172716f225</del>
	4832
1	STATE OF CALIFORNIA )
2	) ss.
3	COUNTY OF ALAMEDA )
4	
5	I, EARLY K. LANGLEY, do hereby certify:
6	That foregoing proceedings were held in the
7	above-entitled action at the time and place therein
8	specified;
9	That said proceedings were taken before me at said
10	time and place, and was taken down in shorthand by me,
11	a Certified Shorthand Reporter of the State of
12	California, and was thereafter transcribed into
13	typewriting, and that the foregoing transcript
14	constitutes a full, true and correct report of said
15	proceedings that took place;
16	IN WITNESS WHEREOF, I have hereunder subscribed my
17	hand on July 1, 2021.
18	
19	
20	
21	
22	EARLY K. LANGLEY, CSR No. 3537
23	State of California
24	
25	
	·

	5278
1	SUPERIOR COURT OF THE STATE OF CALIFORNIA
2	COUNTY OF ALAMEDA
3	BEFORE THE HONORABLE STEPHEN KAUS
4	DEPARTMENT 19
5	VIA ZOOM CONFERENCE
6	000
7	CHRISTINA G. PRUDENCIO,
8	Plaintiff,
9	vs. No. RG20061303
10	JOHNSON & JOHNSON, et
	al.,
11	
	Defendants.
12	/
13	
	REPORTER'S TRANSCRIPT OF PROCEEDINGS
14	
	(Trial - Annjanette Gauthier; Nancy Musco;
15	John Hopkins, Ph.D.)
16	Thursday, July 8, 2021
17	Full Session
18	
19	
20	
0.1	Taken before EARLY K. LANGLEY, B.A., RMR, RSA
21	CSR No. 3537
22	
23	MOLIME 24
0.4	VOLUME 34
24	DAGEG 5070 - 5500
25	PAGES 5278 - 5508

## Case £ 1330 2825 WBLK DiDo £ 3483 FHield 0 951/0 A222 Elettered 0 951/0 A220 88369220 DiDesc Exhibitive A26115: the Datte Sketyelley 1 Dreckland and til ART 2 age 1 263 eo 1 747 of 225

	5279
1	APPEARANCES OF COUNSEL ON THE RECORD VIA ZOOM
2	CONFERENCE:
3	
4	For the Plaintiff:
5	JOSEPH SATTERLEY
	IAN RIVAMONTE
6	Kazan, McClain, Satterley & Greenwood
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7	Oakland, California 94607
	(510) 302-1000
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	Irivamonte@kazanlaw.com
9	
10	For the Defendants Johnson & Johnson, Johnson & Johnson
	Consumer Companies, Inc., Johnson & Johnson Inc., sii
11	Johnson & Johnson Cons Companies:
12	MORTON D. DUBIN
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## Case £ 1330 2825 WBKK DiDo £ 3483 FHield 0 951/0 A222 Elettered 0 951/0 A220 88369220 DiDesc Exhibitive A2011 to the Dathes between the DiDo £ 157 for 225

		5281
1	INDEX - VOLUME 34 - (Pages 5278 - 5508)	
2	INDEX OF EXAMINATIONS	
3	CHRONOLOGICAL	
4		
5	ANNJANETTE GAUTHIER (for the Plaintiff)	
	Direct Examination By Mr. Satterley	5311
6	Cross-Examination By Ms. Diwan	5366
7	NANCY MUSCO (for the Plaintiff via videotape)	
	Examination By Mr. Placitella	5367
8	Examination By Ms. O'Connor	5417
	Examination By Mr. Placitella	5422
9		
	JOHN HOPKINS, Ph.D. (for the Plaintiff via	
10	videotape)	
	Examination By Mr. Panatier	5427
11		
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## Case £ 1330 2825 WBLK DiDo £ 3483 FHield 0 951/0 A222 Elettered 0 951/0 A220 88369220 DiDesc Exhibitive A26115 to Battle Sketyelley | Direction at 18 A Page Plate of 767 of 225

		5288
1	000	
2	PROCEEDINGS	
3	000	
4	Thursday, July 8, 2021 - 8:46 a.m.	
5	(Morning and Afternoon Combined)	
6	(The following proceedings were held in the	
7	virtual breakout room with counsel only outside the	
8	presence of the jury:)	
9	THE COURT: Let's go on the record in Prudencio	
10	outside the presence of the jury.	08:47:03
11	I did want to note one thing, which is	
12	Johnson & Johnson has been very cooperative. Although	
13	they oppose this kind of trial, they've, you know,	
14	tried to assist in the technical presentation, and I	
15	personally appreciate it, because this is a difficult	08:47:27
16	endeavor.	
17	MR. DUBIN: Of course, Your Honor. We,	
18	obviously, also thank the plaintiff's counsel for being	
19	cooperative with us while we're examining the	
20	witnesses. So, you know, we are all doing our best for	08:47:39
21	this.	
22	THE COURT: Right.	
23	MR. DUBIN: Before we begin, I just wanted to	
24	mention something that occurred to me, because I had	
25	raised this before and I wanted to make sure that I	08:47:47

## Case £ 1330 2825 WBLK DiDo £ 3483 FHield 0 951/0 A222 Elettered 0 951/0 A220 88369220 DiDesc Exhibitive A26115: the Datte Sketyelley | Direction at 18 ART Page Plage of 717 of 225

		5427
1	Johnson & Johnson and Johnson & Johnson Consumer, and	
2	this is from trial testimony of 2019.	
3	THE COURT: All right. And I understand it's	
4	longer than an hour, but we are going to look at it	
5	until 1:15 today.	12:17:02
6	MR. SATTERLEY: That's correct, Your Honor.	
7	THE COURT: All right. And then we'll figure	
8	out how to arrange next week.	
9	All right, Mr. Satterley. Go ahead.	
10	MR. SATTERLEY: And, once again, he was sworn	12:17:09
11	under oath. I don't know if the swearing in was a part	
12	of the video, but he was sworn under oath as the	
13	Johnson & Johnson corporate representative.	
14	JOHN HOPKINS, Ph.D.	
15		
	(For the Plaintiff via videotape)	12:17:16
16	(For the Plaintiff via videotape) reported and played to the jury as follows:	12:17:16
	-	12:17:16
16	reported and played to the jury as follows:	12:17:16
16 17	reported and played to the jury as follows:  EXAMINATION BY MR. PANATIER:	12:17:16
16 17 18	reported and played to the jury as follows:  EXAMINATION BY MR. PANATIER:  Q. "Now, you are here as the corporate	12:17:16 12:17:46
16 17 18	reported and played to the jury as follows:  EXAMINATION BY MR. PANATIER:  Q. "Now, you are here as the corporate  representative for Johnson & Johnson and Johnson &	
16 17 18 19	reported and played to the jury as follows:  EXAMINATION BY MR. PANATIER:  Q. "Now, you are here as the corporate  representative for Johnson & Johnson and Johnson &  Johnson Consumer, Inc.; correct?	
16 17 18 19 20 21	reported and played to the jury as follows:  EXAMINATION BY MR. PANATIER:  Q. "Now, you are here as the corporate  representative for Johnson & Johnson and Johnson &  Johnson Consumer, Inc.; correct?  A. Yes.	
16 17 18 19 20 21	reported and played to the jury as follows:  EXAMINATION BY MR. PANATIER:  Q. "Now, you are here as the corporate  representative for Johnson & Johnson and Johnson &  Johnson Consumer, Inc.; correct?  A. Yes.  Q. You don't you don't work for for us; we	

## Case £ 1330 2825 WBLK DiDo £ 3483 FHield 0 951/0 A222 Elettered 0 951/0 A220 88369220 DiDesc Exhibitive A26115: the Datte Sketyelley | Direction at 18 ARTP 12ge Plange of 7187 of 225

		5428
1	Johnson & Johnson; correct?	
2	A. Correct.	
3	Q. You are a consultant?	
4	A. Correct.	
5	Q. So even though you are not currently an	12:18:03
6	employee of Johnson & Johnson, you are the face of	
7	Johnson & Johnson at this trial. Do you understand	
8	that?	
9	A. I am today, yes.	
10	Q. And you understand that what you say are the	12:18:14
11	words of Johnson & Johnson; correct?	
12	A. Yes.	
13	Q. Until about the early 1960s, the talc that was	
14	used in Johnson & Johnson's Baby Powder was Italian	
15	talc for the most part; correct?	12:18:29
16	A. Until around about '67, yes.	
17	Q. It was Italian?	
18	A. It was from a mine in Italy, yes.	
19	Q. The Val Chisone region; correct?	
20	A. From the Fontana Mine in the Val Chisone	12:18:41
21	region, a particular mine, yes.	
22	Q. After '67, Johnson & Johnson had purchased a	
23	mine in Vermont; correct?	
24	A. They did, yes.	
25	Q. Well, they they purchased it prior to 1967;	12:18:51

## Case £ 1330 2825 WBLK DiDo £ 3483 FHield 0 951/0 A222 Elettered 0 951/0 A220 88369220 DiDesc Exhibitive A26115 to Battle Sketyelley 1 Direction at 18 A P 1 age P 1663 e of 719 1 of 225

		5431
1	A. It was, yes.	
2	Q. So Johnson & Johnson no longer owns the Shower	
3	to Shower product line; right?	
4	A. Not since 2012, no.	
5	Q. It, obviously, still owns Johnson's Baby	12:21:06
6	Powder; correct?	
7	A. Yes.	
8	Q. Okay. Johnson & Johnson Corporate in New	
9	Brunswick made all health and safety policy decisions	
10	with regard to asbestos and talc products; correct?	12:21:22
11	A. The yes. The company in New Jersey, as the	
12	parent company for all global companies, made those	
13	decisions, yes.	
14	Q. Okay. Johnson & Johnson had a big medical	
15	library; right?	12:21:37
16	A. They had a library, yes, certainly when I was	
17	working there.	
18	Q. They had subscriptions to journals like Journal	
19	of the American Medical Association; right?	
20	A. We did, yes.	12:21:48
21	Q. New England Journal of Medicine; right?	
22	A. Uh-huh, yep.	
23	Q. The Lancet?	
24	A. Yes.	
25	Q. And Johnson & Johnson was aware of asbestos	12:21:52

		5436
1	A. Yeah. That's what I said five minutes ago.	
2	Q. Johnson & Johnson knows there's no safe level	
3	of asbestos exposure; correct?	
4	A. Scientists have not shown a safe level, so	
5	yeah, I would not disagree.	12:26:14
6	Q. There's no known safe level of asbestos	
7	exposure, especially for children; correct?	
8	A. Again, same answer. There's no no evidence	
9	to say otherwise, so we'll assume it's correct.	
10	Q. Well, in fact, your answer if you go right	12:26:25
11	below on page 108, you were asked this question:	
12	'Okay. And Johnson & Johnson knows there	
13	is no safe level of asbestos exposure,	
14	especially for children; correct, sir?'	
15	And your answer was, again:	12:26:37
16	'There is no known safe level.'	
17	Correct?	
18	A. Yes, that's what I said.	
19	Q. And then the follow-up question was:	
20	'That's right, especially for children;	12:26:46
21	correct?'	
22	And you said, 'Yes.'	
23	Correct?	
24	A. That's right. That's what I agree. Yeah.	
25	Q. All right. Johnson & Johnson understands that	12:26:53

		5437
1	if you had just 1 percent by weight of asbestos in a	
2	4-ounce bottle of Johnson's Baby Powder, you don't know	
3	if it would be trillions or millions or billions of	
4	fibers, but it would be a very large number; correct?	
5	A. Yes.	12:27:09
6	Q. In eight ounces of Johnson's Baby Powder, there	
7	would be tens to hundreds of trillions of particles;	
8	correct?	
9	A. I don't think anyone has ever counted them, but	
10	you could estimate that would be many, many trillions,	12:27:21
11	yes.	
12	Q. Okay. And if we just wanted to get an	
13	understanding of what that would mean in terms of how	
14	much asbestos was present, you and I did this	
15	calculation.	12:27:35
16	If you had .00001 percent chrysotile, and there	
17	were only a trillion particles in the whole bottle, not	
18	tens or hundreds, you would still have 10 million	
19	fibers per container; correct?	
20	A. Well, that's that's the math, yes.	12:27:53
21	Q. The truth is that there is a robust history of	
22	amphibole minerals in Johnson & Johnson's talc that	
23	they used for baby powder; correct?	
24	A. You can find nonasbestos amphibole minerals in	
25	pretty well every county in the United States, and you	12:28:09

### 

	5508
1	STATE OF CALIFORNIA )
2	) ss.
3	COUNTY OF ALAMEDA )
4	
5	I, EARLY K. LANGLEY, do hereby certify:
6	That foregoing proceedings were held in the
7	above-entitled action at the time and place therein
8	specified;
9	That said proceedings were taken before me at said
10	time and place, and was taken down in shorthand by me,
11	a Certified Shorthand Reporter of the State of
12	California, and was thereafter transcribed into
13	typewriting, and that the foregoing transcript
14	constitutes a full, true and correct report of said
15	proceedings that took place;
16	IN WITNESS WHEREOF, I have hereunder subscribed my
17	hand on July 9, 2021.
18	
19	
20	
21	Early Langley
22	cary ocursuly
	EARLY K. LANGLEY, CSR No. 3537
23	State of California
24	
25	

## Exhibit E

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### **EXHIBIT E**

JNJ 000133180

Prudencio Pltfs' Ex. 0877 pg 1

# Adding TEM to the Global Talc Specification

Timothy J McCarthy, PhD, DABT

Director, Toxicology

Baby R&D and Product Stewardship

# Currently Available Testing Methods for Asbestos in Talc

### IR - Infrared

Lowest detection limit. In some Compendia requirements but of limited value.

### XRD - X-ray Diffraction

Primary compendia method which is designed to identify potential asbestos form structures. If suspect crystalline structures are detected, go to light microscopy for confirmation based on morphology.

### OM and PLM – Optical Microscopy and Polarized Light Microscopy

Used to confirm if potential asbestos forms are actually asbestos.

PLM is the preferred method since it provides a higher level of crystalline structure discriminatory capability.

### TEM – Transmission Electron Microscopy

Most sophisticated of the methodologies
Found only in specialized analytical laboratories.
Can see structures more clearly and can confirm chemical composition
Viewed as the "gold standard" by industry subject matter experts.

### **Analytical Detection Limits**

<b>Analytical Method</b>	Detection Limit	Comment
XRD	0.1 – 1 %	Depends on particle size, matrix interference
		Cannot differentiate morphology
PLM	1%	Visual estimation
	100/Points Counted %	Variable, depends on the number of particles counted (i.e., 400 pts = 0.25%, 1000 pts = 0.1%)  PLM limited to particles 0.5 – 1 µm and wider
TEM	0.01 – 0.1 %	May be much lower if matrix particles can be removed
		TEM limited to particles shorter than 50 μm or thinner than 5 – 10 μm

Data provided by RJ Lee

### Raw Ore sampling

RJ Lee detected the presence of chrysotile fibers (NMT 6.5 ppm) in certain raw ore samples by Transmission Electron Microscopy (TEM).

No asbestos fibers were detected in J&J talc product samples.

No asbestos fibers were detected by using the pharmacopoeia compendia methods, X-Ray Diffraction (XRD) or Polarized Light Microscopy (PLM).

### Hypothetical Consumer Exposure

- Compendia require asbestos to be "not detected" in consumer-use talc
- What does "not detect" mean when more sensitive methods supplement existing compendia testing?
- How much asbestos might a consumer be exposed were there asbestos in the talc ore below the compendia limits of detection?

### Hypothetical Consumer Exposure

- During a body powdering event, how much airborne talc might a consumer be exposed?
- During that powdering event, how much hypothetical asbestos might a consumer be exposed, when the asbestos is below the compendia limits of detection? Assume 10 ppm by TEM.
- How does that compare with occupational exposure levels?
  - 8-hr work day
  - 30-min excursion (spike)

Parity with the occupational exposure limit is not considered an acceptable consumer exposure in this assessment.

(29CFR§1910.1001; DIRECTIVE 2009/148/EC)

### Hypothetical Consumer Exposure

Hypothetical exposure during consumer body dusting event

• Adult 4.5 – 9.3 fibers

Baby diapering 0.16-0.18 fibers

Normalizing to number of fibers potentially inhaled during the duration of the event

- The allowable 8-hour occupational exposures are at least 107,000 times higher than the hypothetical consumer exposures
- The allowable 30-min excursion value at least **67,000 times higher** than the hypothetical consumer exposures, when.

# Implications of Supplementing Compendia Specification with TEM

- No detectable asbestos was found using the compendia methods
- "not detectable" has diminished value when highly sensitive methods are added to existing specifications.
- The hypothetical consumer exposures result in respirable fibers several orders of magnitude lower than occupational exposure limits
- The trace level of chrysotile by TEM in certain raw ore samples does not pose a health hazard to the consumer.

## Exhibit F

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### CYPRUS ORE RESERVE EVALUATION PRELIMINARY SUMMARY

R. C. Munro

#### INTRODUCTION

A complete evaluation of the CIM talc reserves is underway, but has emerged as a more complex task than anticipated. There are eighteen mining reserves to assess with at least four ore quality factors<sup>1</sup> to evaluate in each case, and data available from CIM is not always clear. It will take till May 15 to complete this project. Two U.S.B. senior geologists have been conscripted part time for independent reserve calculations on the more important talc deposits.

The following is a summary of our thoughts to date.

#### **GENERAL**

We have been working with Philippe Moreau of Talc de Luzenac, Ernie Reade of CIM and the CIM geological staff to determine:

- How closely the real mineable ore reserves match the geologic resource numbers that have been carried by CIM.
- 2) The tons of ore (and years of production life) that are remaining in the ground at the various reserve sites and the ore qualities available in proportion to the ore requirements for the various CIM milled products.

**EXHIBIT F** 

<sup>&</sup>lt;sup>1</sup> Talc content, brightness, impurities and quality.

3) The related problems that exist in terms of environmental concerns, permitting, mineability and liability at each mining site.

So far, our reserve estimates in tons of mineable proven and possible ore differ in some areas from CIM's figures. These comparisons appear on the summary sheet, page 3, with comments.

Hammondsville and Beaverhead appear to have no significant economic value as reserves. The usable tonnage at the Troy deposit is substantially reduced. The Hamm deposit needs more detailed study before its future value is understood. Significant additional potential may exist at Argonaut. Yellowstone South Forty has major potential for significantly increased reserves and reduced stripping ratios.

Matching all types and volumes to various CIM milled products in some sort of material balance sheet has proven more difficult than expected. CIM data is hard to quantify and has required constant adjustment, as CIM staff strive to educate us in their rather complex "ore to product" paths. At this writing, the tonnages used and the role of imported ores need to be clarified. In spite of a significant effort and some surplus staff, the Cyprus organizational system has not enabled a clear, consistent overall picture of current ore reserve usage to emerge and be transmitted to anyone - Cyprus itself or a potential buyer.

Some problems with several of the mine reserves sites have emerged.

<u>Fibrous minerals</u> - tremolite and actinolite are ubiquitous in several zones of the Vermont mines. The potential problems involved with fibre in dumps, and to some degree in products, must be carefully evaluated.

### **ORE RESERVE COMPARISON**

	GEOL	OGIC	MINEA	BLE	COMMENT
			Proven & I	Probable	
MINE	CYPRUS (as of 12/31/90)	BORAX	CYPRUS	BORAX	
Talc					
Holmes/Ward, AL	173,000	-	75,000	75,000	hard rock reserve
Argonaut, VT East		3,000,000	_		good potential but little data – an inferred reserve – DRILL?
Argonaut, VT Main	5,835,000	3,000,000	3,775,000		high stripping cost in early years
Black Bear	1,499,000	1,300,000	1,299,000		a viable reserve
Clifton	600,000		300,000	300,000	reserve not checked for mineability
Frostbite	1,400,000		650,000		reserve not checked for mineability
Hamm	6,508,000	3,060,000	3,158,000	1,952,000	need additional data to assess this reserve - As & fibre - DRILL?
Hammondsville	4,727,009	•	2,227,000	_	unmineable
Kelley	900,000		530,000	500,000	possible reserve
Newfane	850,000		390,000		a prospect – possible reserve
Rainbow	1,416,000	765,000	1,116,000		needs further financial evaluation - DRILL?
Troy	7,200,000	1,305,000	3,600,000		a problem reserve
Beaverhead,MT	144,000	59,000	61,000	_	not a viable reserve at today's prices
MP Claims	84,000		58,000	58,000	prospect – possible reserve
Yellowstone - \$40	19,244,000	14,802,000	6,814,000		recovery problem but good ore body with excellent
			;	•	additional potential - DRILL?
Yellowstone - N. Main	2,533,000	962,000	1,066,000	933,000	may phase out with S40 development
Yellowstone - Other	473,000	N/D	_	unknown	no significant reserve potential apparent
KR Prospect, CA	280,000				a prospect in sensitive area
Red Hill/Main	366,000	375,000	116,000	150,000	adequate tonnage for needs
Van Horn, TX	_		_	_	not reviewed – poor quality
Chlorite					
Antler	322,000		280,000	275.000	actual recovery needs to be defined
Cottonwood				_	low brightness prospect
Fair Lady				_	untested
TOTAL	54,554,009	28,628,000	25,515,000	21,139,000	

Arsenic minerals, both insoluble sulphides and the more soluble arsenate minerals are problems that restrict productivity in an effort to keep product under 3 ppm soluble As in the West Windsor and Johnson Mills. High arsenic restricts product acceptance and lays a basis for future possible environmental and permitting problems.

Also in Vermont, the underground Windham Mine has been identified as the site of a PCB transformer left on the second level of the flooded workings.

Permitting is in dispute at the Ludlow East Argonaut operation where stripping and mining are underway. At the major new reserve in the Ludlow area, the East Argonaut zone, the mining permit has been challenged by a nearby homeowner and supporters.

Ore stock piles in inventory need thorough checking. Troy ore stockpiles are described in inventory as 93,000 tons. Operations staff claims 70,000 tons of which only 11,200 tons are judged to be suitable for current Johnson mill feed, with perhaps 13,000 tons of fines when dry. Johnson Mill inventory is given as 7,000 tons. Plant Manager Ed Wissle says 3,500 tons. This degree of error at Troy-Johnson suggests that all stockpiles be investigated before the ore stockpile inventory values are accepted. Stock piles inspected at Alpine appear to meet claim.

#### **WESTERN MINES**

#### California

The small, but aggressively managed, Western Source operation produces limited use dry ground product for roofing shingles from the Red Hill Mine. The Red Hill

deposit is a tabular deposit of talc carbonate schist some 50′ wide with 20′ of better grade material in the footwall. It is estimated to be over 1,200′ in length and dipping ≈50° to the NE. The deposit runs about 50-60% talc with higher talc content in some areas of the narrow footwall zone. Fe oxide stains the more shallow ores. GEB on currently mined ore runs 75% (too high in iron for ceramics and not bright enough for paint). CIM calculates a mineable reserve of 366,000 tons. USB calculation provides for a similar tonnage of 375,000 tons to a depth of 100′, although this may require a stripping ratio of greater than 1:1 to access the better talc. XRD analysis sheets examined showed no fibrous minerals detected in the Western Source product.

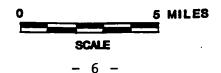
An additional undeveloped reserve of talc carbonate schist is held on a lease in force until the year 2009 at the KR property. Trenches and several drillholes have generally indicated a large zone of banded talc carbonate schist with bands of micaceous schist quartz veins. A small area where soil was stripped in the past has been recovered. The KR property offers a 300,000-ton potential, providing future urban development in the area permits the opening of a talc mine at this location.

The Toyon Mill is permitted and in a reasonable location for access to the northern California market and there has been some half-hearted experimentation with milling Montana ores there for an expanded market line of Western Source products. Toyon might also treat any Nevada chlorite developed at Fair lady in the future if it could be economically transported.

Other California deposits include the Talc City claims, claims near Death Valley (sites of past production) and Eagle deposit in Saline Valley currently intermittently

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### LOCATION OF C.I.M. PROPERTIES CALAVERAS COUNTY, CA.



produced by a minor lessee. None of these offer valuable reserve potential, but some may have a glimmer of environmental liability with stockpiled tremolite rich ores. Reade promises a report on these locations.

#### Montana

### **Yellowstone South Forty**

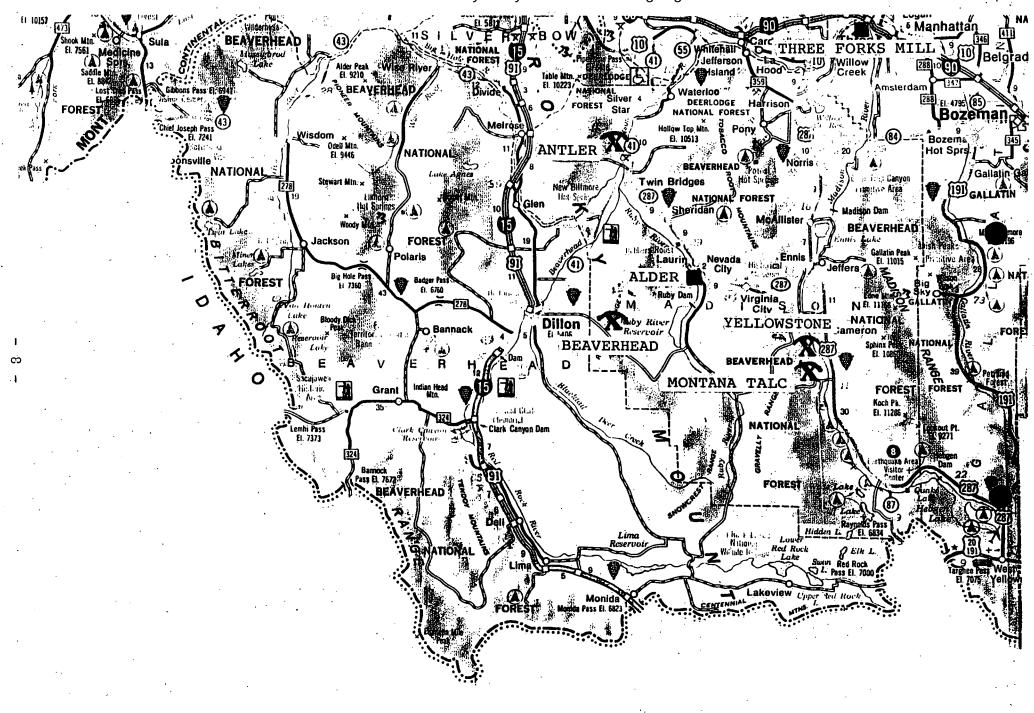
CIM's most important (western) talc reserve is the Yellowstone South Forty pit. Recognized in 1987 and subsequently explored by more than 100 drill holes (assay data on about half of these). The reserve emerges as a major world talc resource.

The CIM ore reserve calculations completed and reassessed in January of this year indicate reserves as follows:

Geologic Reserve of 9,477,000 tons of which 6,813,943 tons are classified as proven and probable mineable tons at a waste to ore ratio of 4.5:1. 75% of this reserve is estimated to be of ore grading + 90% talc.

Further, CIM have estimated a Recoverable Reserve that accounts for mining and sorting plant recoveries. This is accomplished by the application of recovery factors of 30% to 66% on each of the 12 ore types in the reserve calculation. CIM estimates the "recoverable reserve" at 3,898,220 tons of total "recoverable talc" or 57% of the mineable reserve. This is an approximately 22 year mine life at the current consumption rate.

### Case 22302825 MBBK DiDo 23484 Fifted d) 05/10/222 Elettered d) 05/10/2208869220 DiDesc Exhibit Exhibit text 1 bit text 1



USB's independent ore reserve calculation has identified a proven and probable mineable reserve 7,131,370 tons at a 5.09:1 waste to ore ratio within a 15,000,000 ton geologic resource.

Recoverable reserves for us become a problem with the acceptance of CIM's theoretical, calculated 57% recovery factor which is not supported by recent recoveries of concentrate in the mine and sorting plant.

Based on annual production records, pages 10-13, recoveries of concentrate (to the mill) from ore to the sorting plant during 1989 (21%), 1990 (29%) and 1991 (26%) yielded a weighted average of 23.5%. Corrected 1991 figures for sorter recoveries were provided and indicate a 30% recovery for 1991, see flow sheets page 15-17. Applying a 30% recovery to the 7,131,000 mineable reserve = 2,139,000 tons of recoverable talc concentrate, -10 year mine life at current concentrate production rate. On this basis, recoverable talc is 5.0% of the total rock mined (ore and waste); the approximate average mined tons to product tons ratio for the past 10 years, see page 18.

When asked about the large discrepancy between the actual historical recoveries and the newly calculated theoretical recoveries, CIM staff indicated that they expected and calculated better recoveries for the future as production moved into the newly opened high grade faces of the South Forty pit.

Inspection of the drill sections confirms the view that substantial tonnage of high grade talc lie in the current South Forty pit floor. However, much of the plant losses are in screenings (38%) and unless most of these were sold as CIMCOAT or MISTRON II products, it seems unlikely that the projected 57% recoveries will

	•		• •		-							•		<del></del>	
•					END OF	MONTH	I REI J	RT 1	DECEME	3ER 199	1		1.1		
INE PRODU	CTION			•				4110	SEP	ост	NOV	DEC	YTD	1990	1989
	JAN ·	FEB	FIAM	APR	MAY	JUN	JUL	AUG	-	348,404	283,816	195,153	2,853,262	3,343,600	471338
ASTE	229,221	172,677	123,655	113,459	245,380	289,009	294,907	260,358	297,223		4,531	3,076	422,642	409,452	5053
ONE	59,487	62,606	65,217	88,855	41,029	27,453	7,697	22,261	8,289	32,141	38,615	27,472	674,737	B22, 930	10027
RE	73,511	66,061	68,406	56,548	70,698	54,081	58,908	58,417	40,150	61,872 0	30,013	. 0	12,032	59,835	47 64
IED FD/STPL	1,682	0	901	0	2,589	3,939	457	96	2,368	•	33,527	24,595	586,153	619,500	62030
S FD/STPL	65,060	59,085	64,027	51,370	58,029	44,253	52,424	50,225	28,374	55,184	4,608	2,223	69,335	143,865	2 3
S FD DIRECT	2,976	4,814	3,478	5,178	10,078	5,889	6,027	B,096	9,280	6,688	480	654	7,089	11	_
RECT SHIP	3,793	2,162	. 0	0	0	0	0	0	0	0		517	8,837	15,440	
TALC MINED	0,,,,,	_,	128	. 0	0	2,571	0	0	Ò	. 0	5,621	317	, (0,00)		
	•	٠.			•	<b>SOUTH FO</b>	RTY PIT					_	125,038		
OUTH FORTY	47,159	11,767	62,112	4,000	0	0	0	· <b>p</b>		0 .	Q.,	, _0	508,550		
ENCH 6126 ENCH 6100	34,453	48,273	63,726	96,909	168,491	17,04,1	2,098	. 0	89,376	800	384	69,077	600,313		
ENCH 6075	13,656	45,443	10,871	74,717	81,591	9,751	19,314	53,453	36,319	112,319	73,802	09,077	1		
	10,000	1-1				14,944	38,720	32,822	69,142	51,479	6,263		144:	3/0	
ENCH 6050			•			NORTH FO	RTY PIT				,	0	156,658		
ORTH FORTY	135,524	20,758	<u>_</u>		376	. 0	0	0	. 0	0	0	. 0	279,057		
ENCH 6250	131,427	144,286	3,344	, 0	0	0	. 0	, o	0	0	. 0	0	219,242	•	
ENCH 6225 ENCH 6200	0	29,728	127,226	62,192	96	, <sup>65</sup> O	0	) O	0	0	. 0	0	99,249		•
ENCH 6175		4,089	•=••	6,208	29,929	49,734	9,209	0	1 0	0	0	0	7,488		•
ENCH 6150	(	.,					7,488	1 0	' 0	0	U	<b>.</b>	7,400	173	
IORTH MAIN						NORTH M		` _	_	<del></del>		۰. ٥	34,670	17.5	
ENCH 6140	•			•	20,792	13,878	0	. 0	0	10	0	0	475,903		
ENCH 6115			·		55,830	257,769	162,304	0		4,984	o	10,530	482,290		
ENCH 6090						7,426	124,299	242,811	92,240	1213,236	2,373	0,000	286,144		
ENCH 6065								11,950	58,585	59,599	186,858	47,375	293,832		
ENCH 6040						•	_	_		0 0	57,282	98,719	170,837	1743616	26
ENCH 6015	•			14,B36	. 0	. 0	0	0	0		326,962	225,701	3,950,64)	4,591,422	6 221
OTAL MINED	362,219	301,344	257,278	258,862	:157,105	370,543	361,512	341,036	345,662	17,000	13,475	10,919	1 ' '	200,110	212
ONS PRODUCT	16,967	14,255	14,374	16,979	15,951	14,005	14,019	17,020	13,680	17,000	. 10,470	,,,,,,	26%	24%	21
TRIPPING	• 7.			•						nc.4	23:1	20:1	21:1	22:1	28:
PATIO	20:1	20:1	17:1	14:1	21:1	25:1	25:1	19:1	24:1	25:1	35%				
IA II O	23%	2.2%	227	3 <sub>0</sub> 7,	239,	269	247	274,	344.	274,	331	399.	<- W/O CI		
	<b>400</b>					. New Street, and the street,	s (sidjiidji side	. Techiling 1		haratayar'a	36%	41%	EW/ C	LACOM	
MINING HIG	ні івн	TS	tyllig tom. Mari		a tangan Ma						.: 30 0		<b>JEAN</b>		, i.
Allallace Life	المناطاة	. is	rai Talana	ni mesaila	in 1991 i	Siponee got	la wore also	mot.			4. 244		2		••
	1) VB btoo	trollou Goal	e werd met	on a low of			Applied of the	Discol tips	no la 1001	doctosaed	di dikamata			epidada 14.	•

Gas prices varied from a low of \$1.00 to a high of \$1.21 per gallon; Gasoline usage was down 7,500 gallons from 1990 usage.

by 81,560 gallans from 1990 usago.

3) Pit personnel did an excellent job of keeping costs to a minimum:

MINE PRODUCT	TION -				•	TH REPO	-111	avi	MAN	Y 199	2			
WASTE 208		MAR	APR	MAY	, JUN	JUL	AUG	SE	<u>E</u> P	ост	NOV	DEC	1992 YTD	AL:
	514 ·	•		•									208,914	199
B.0.	713	•		* *					•				2,514	229,22
140 ==	250			•		•		•					33,713	59.48
110 50 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5 5	438										•	•	258	
DIDEAT ALL	768 .	•	4.1					,					20,438	رر 65 <sub>,</sub> 06
076	215						,						768	2;97(
	)36				•	•				•			9,215	3,79
SOUTH FORTY	148									•			3,036	N/A
Ď.C.1.0.1					•						•	• * .	2.048	(
05161	•	•					•				•			
BENCH 6050 46,2 NORTH MAIN	30 I					4			٠.				22,541	13,656
BENCH 6090 15,6	22						•						46,281	0
BENCII 6005	0 .	-			,						•			
BENCII 6340	0					• ,	•						15,632	. 0
BENCH 6015 113,9	25					·			•				Ó	0
BENCH 5990 46.7						•			:	•		-	0	0
OTAL MINED 245.1	<del>-</del>	ń	•	_					•	•			113,925	o o
ONS PRODUCT 18:5	36			. 10 (97. \	0	. 0	0		D	o.	•		46,762	
STRIPPING	55% W/	CIMOAN	. ماند	$(\frac{18586}{33713})$	<b>7</b> .	cr 1		<b>.</b>	0	_	0	0 -	245,141	362,219
IATIO 12:1			ا مادد	20,445	4 100	0% No	Mn /	VA A TU	PIT	2)			18,586	16,1
litricianitus - Adriad brans roman ann an	=			(33,71)	)									
AINING HIGHLIG					didistribitation	iiniidikintama	4-1-5-1-5-4			•	•			20:1

19, No act

### Case 213302825 WBBK DDo 234834 Fifted 00 51/2/222 Entremed 00 51/2/222083369220 DDesc Exhibit Exhibit

2 nd POSTA RECIGIED

r		•								•					•
C	MS/SPS PRODU FEED PRODUCT SCREENINGS OVERSIZE WASTE	JCTION JAN 56,391 11,940 22,711 3,420 18,320	FEB 58,344 14,201 24,756 5,564 13,823	MAR 64,627 13,855 22,478 3,230 25,086	APR 59,075 16,288 23,116 2,635 17,036	MAY 52,173 15,772 17,465 2,285 16,651	JUN 39,039 13,810 11,601 1,645 11,983	JUL 47,352 13,995 19,074 1,340 12,943	AUG 48,617 17,020 18,363 260 12,474	SEP 29,952 13,386 14,409 2,087	OCT 50,098 17,000 18,480 880 13,738	NOV 38,305 13,443 14,811 336 9,721	DEC 26,113 10,353 10,011 100 5,649	570,086 171,083 217,273 22,259 159,491 272,948	1990 672,982 156,200 222,623 42,361 250,570
	MS FEED MS PRODUCT MS WASTE RECOVERY	25,242 9,993 15,249 40%	23,079 11,349 11,730 49%	29,934 11,539 18,385 39%	25,457 13,126 12,331 52%	25,744 13,110 12,634 51%	23,108 12,744 10,384 55%	25,371 13,591 11,780 51%	28,735 15,576 11,159 58%	13,741 12,611 1,130 92%	24,855 15,133 9,722 60%	17,766 11,451 6,315 64%	9,037 2,879 76%	149,260 123,688 57%	116,436 181,833 ~:%
	TONS/SORTER HOUR  SPS FEED SPS PRODUCT SPS WASTE	5.3 5,018 1,947 3,071	7.6 4,945 2,862 2,093	5.7 8,987 2,316 6,671	7.8 7,867 3,162 4,705 40%	6.5 6,679 2,662 4,017 37%	7.0 2,685 1,066 1,819 40%	7.3 1,587 404 1,163 26%	8.6 2,759 1,444 1,315 52%	10.6 1,732 775 957 45%	5,883 1,867 4,016 32%	5,398 1,992 3,406 37%	4,086 1,318 2,770 32%	57,606 21,803 35,803 39%	136,938 39,764 97,194 29%
- 12 -	IOMOROGICIE	The straightful and a second second	58% 6.2 VERSIZE 1 FEB	26% 4.9 HROUGHT MAR	7.9	8.5	4.5 RECOVER JUN	3.3 Y*	11.2 AUG	11.8 SEP	8.6 OCT	4.6 NOV	4.0 DEC	6.3 YTD	1990
	SHED PRODUCT FEED PRODUCT SWASTE SCREENINGS RECOVERY TONS/SORTER HOUR	1,402 1,234 168 0 88%	66 54 12 0 82%	867 501 69 297 57%	78 80 18 0 77%	.8*	1.2*	1.0*	0.0	2,082 294 1,788 0 14%	0 0 0 0 <del>%</del>	0 0 0 0 0 0	0 0 0 0		
	FEB	* SORTIN	G CONFIG	URATION C	HANGED	O PIT SOR	T STYLE F	OR 39 MAT	ERIAL						

MS/SPS PRO	)AN	. FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YTO	1990	•
		58,344	64,627	56,174	52.173	48,232	54,909	50,230	36,684	56,706 -	37,698	24,939	597,107 <sup>23</sup>	672,982	
FEED	56,391	•	13,855	16,288	15,772	13,810	13,995	17,020	13,386	17,000	13,443	10,353	171,063	156,200	23%
PRODUCT	11,940	14,201	22,476	23,116	17,465	11,601	19.074	18.363	14,409	18,480	14,811	10,011	217,273	222,623	33 %
SCREENINGS	22,711	24,756		2.635	2,285	1,645	1 340	760	70	B80	330	100	22,259	42,361	7
OVERSIZE	3,420	5,564	3,230	14,135	16,472	17,991	20.500	14.087	8,819	20,346	9,114	4,475	183,138	250,570	37
WASTE	18,320	13,823	25,066	14,133	10,772	17,501	40,000	• • • • • • • • • • • • • • • • • • • •		•	•		•		J 1 ;
MS FEED	25,242	23,079	29.934	25,457	25,744	23,108	26,718	26,735	13,741	27,218	17,766	11,916	276,658	298,159	
MS PRODUCT	9,993	11.349	11,539	13,126	13,110	12,744	13,591	15,576	12,611	15,133	11,451	9,037	149,260	116,436	
MS WASTE	15,249	11,730	18.395	12,331	12,634	10,364	11,780	11,159	1,130	9,722	6,315	2,879	123,688	181,833	
RECOVERY	4096	50%	26%	52%	51%	5496	49%	58%	92%	56%	64%	76%	56%	/ 39%	)
TONS/SORTER														_	
HOUR	5.3	7.6	5.7	7.6	6.5	7.0	. 7.3	8.6	10.5	8.8	10.0	10.3	7.9		•
,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,												4.000	FO 000	100 000	AV
SPS FEED	5,018	4,945	9,000	7,867	7,148	2,685	1,567	2,759	1,732	5,883	5,398	4,086	58,088	136,938 39,764	1,816
SPS PRODUCT	1,947	2,852	2,316	3,162	2,662	1,066	404	1,444	775.	1,867	1,992	1,316	21,803 36,272	97,194	303
SPS WASTE	3,071	2,093	6,671	4,705	4,486	1,619	1,163	1,315	957 45%	4,016 32%	3,406 37%	2,770 32%	39%	29%	
RECOVERY	40%	50%	26%	40%	54%	40%	26%	. 52%	43%	3270	3/76	3270	. 0370	2370	
TONSISORTER						A		11.2	11.8	8.6	4.6	4.0	6.3	4.2	
HOUR	3.1	6.2	4.9	7.3	<b>6.5</b>	4.5	3.3	11.2	11.0	0.0	7.0		<b>0.</b> 2		
	REHUN O					ECUVERY	JUL	DUA	SEP	ост	NOV	DEC	YTD	1990	
	MAL	FEB	MAR	APR	MAY	JUN	JUL	AOG	JLF	001		520	• • • • • • • • • • • • • • • • • • • •	••••	
SHED PRODUCT				70	4 790	1.071	204	٥	2,082	0	. 0	0	7,470	78,407	•
FEED	1,372	66	867	78 50:	1,730 179	1,071	24	ō	294	0	Ō	Ō	2,541	39,835	
PRODUCT	1,234	54	501	60	* *, =	976	180	o	1,788	0	0	0	4,662	8,574	
WASTE	168	12	69	18	1,551 0	. 0	0	0	0	0	. 0	0	297	27,248	
SCREENINGS	0	0.	297	0	10%	18%	12%	096	14%	0%	- 0%	096	33%	53%	
RECOVERY	88%	82%	57%	77%	1010	1070	1270	- 70							
TONS/SORTER		• •		0.7	0=	1.2*	1.0*	0.0	.6*	0.0	0.0	•	2.2	3	
HOUR	3.1	3.3	3.6	3.7	.8"	1.4	1.0	=			,		174,55	3	

SORTING CONFIGURATION CHANGED TO PIT SORT STYLE FOR 39 MATERIAL

### PLANTING PESSING HIGHLIGHTE

- 2 191 The Market Year of Bank Assertices 2004
- At The biggest morale popular was the new stretch and exercise program

be realized without other changes. Nothing we have seen in the Yellowstone records would suggest past mechanized sorter recoveries in this range.

Projected ore types within the Yellowstone S40 are as follows, with a +90% talc ores at +82 GEB, comprising 66% of the deposit.

	*		%Total
+90% Talc	+ 88 GEB	684,600	9.6%
+90% Talc	82-87 GEB	3,480,050	4.8%
40-90% Talc	+ 88 GEB	42,790	0.6%
40-90% Talc	82-87 GEB	969,930	3.6%
+90% Talc	Unknown brightness	1,540,350	21.6%
40-90% Talc	Unknown brightness	413,650	5.8%
		7,131,370	

Dramatic potential for increased reserves exists with approximately 2 million tons within the planned pit, offering a decreased stripping ratio and outside the planned pit there is, in the north extension and at depth, the potential for another 5 million tons.

Additional potential for new ore probably exists in a parallel N-S zone to the west of the known S40 ore body. This could bring the potential Yellowstone reserves to the 25 million ton range (see page 19).

### YELLOW STONE MINE PRODUCTION

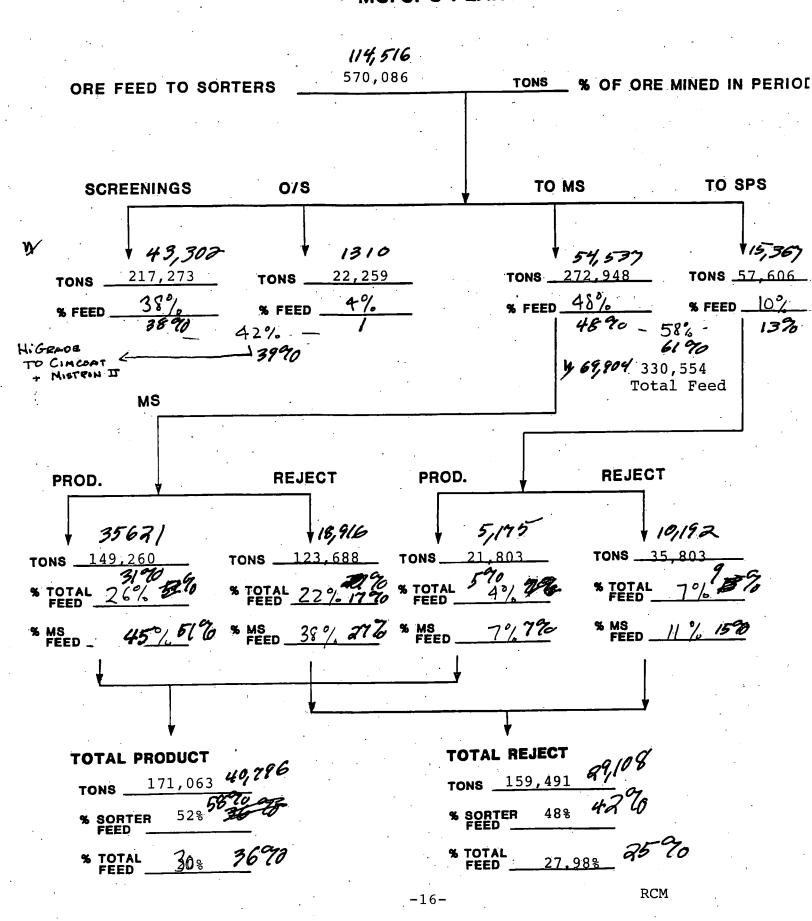
	SOUTH	FORTY	NORTH	MAIN	NORTH	FORTY
	TONS	%	TONS	%	TONS	%
WASTE	965,203	66.78	1,492,343	85.60	395,716	54.22
BONE	153,576	10.63	93,866	5.38	141,706	19.42
ORE	326,492	22.59	157,467	9.03	192,410	26.36
	1	% W/O		% W/O		% W/C
TOTAL MINED	1,445,271	3.43:1	1 1,743,343	10:1	729,832	2.79:

Total Rock Mined 3,918,446

TOTAL TOTAL TOTAL MINED TONS **ROCK** ORE 72.81 2,853,262 TOTAL WASTE 389,148 9.93 TOTAL BONE 17.26 676,369 TOTAL ORE ORE SHIPPED TO 3 FORKS 7,089) ORE SHIPPED TO MS/SPS TOTAL W/O Incl.bone as 4.79:1 waste

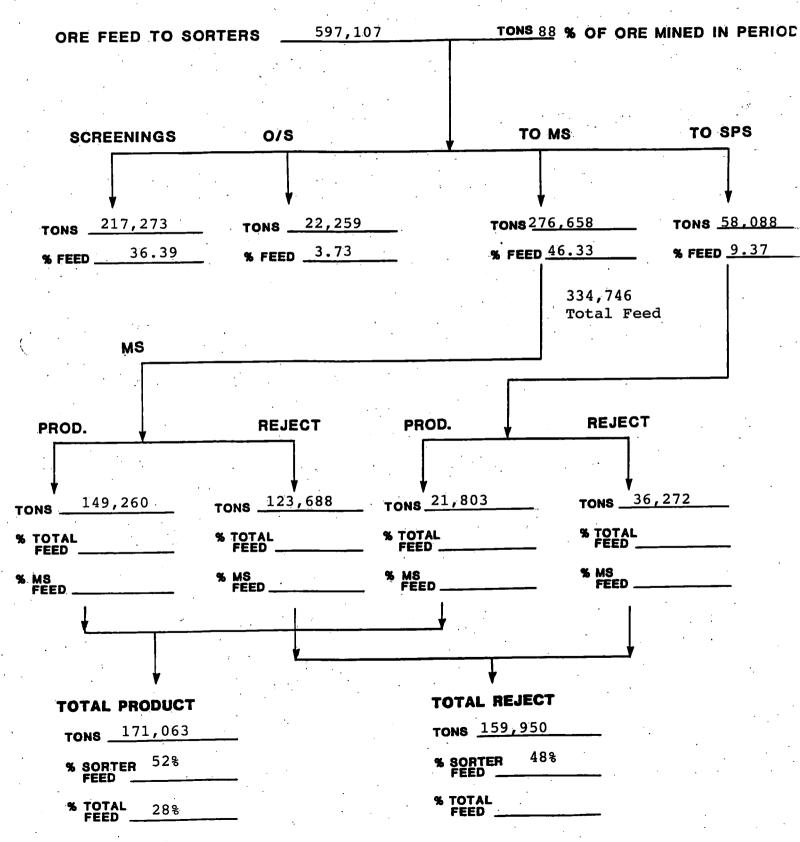
**RCM** 

# PERIOD 91 2ND FIGURES YELLOWSTONE MS/SPS PLANT



### PERIOD 91 1ST FIGURES

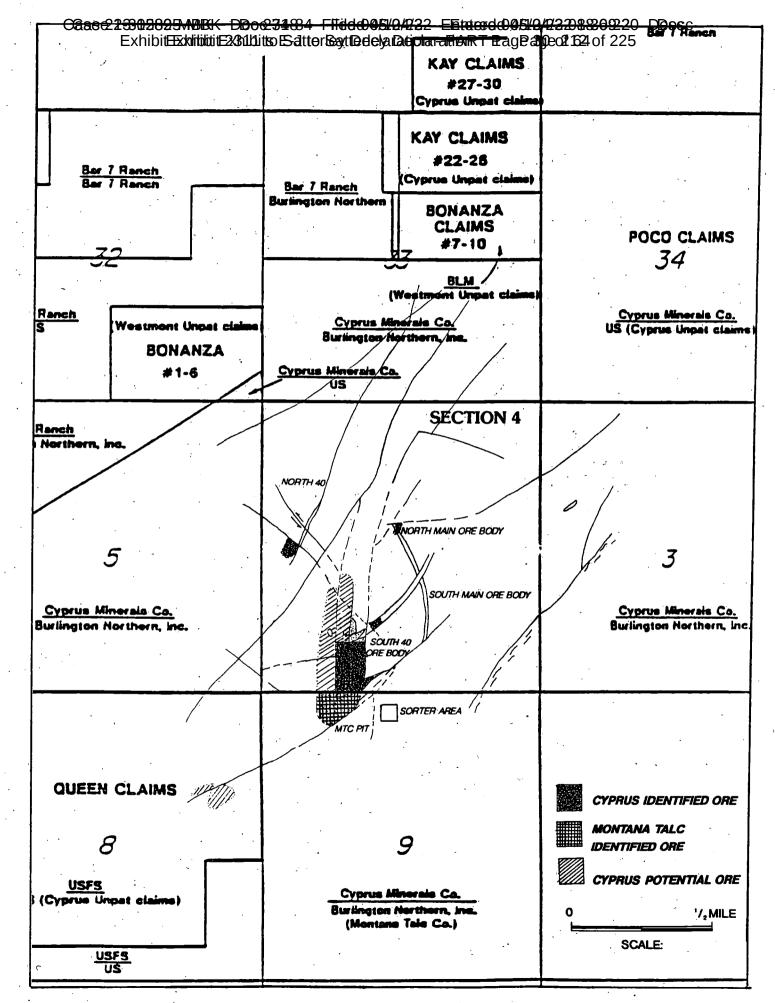
## YELLOWSTONE MS/SPS PLANT



### YELLOWSTONE MINE PRODUCTION

	YEAR	TOTAL	TONS MINED	TOTAL	TALC PROD	UCED CAN	SH COST
	1054	•	118,000 M	•	20,000	16.91	
	1950 - 1954				26 000	16.90	
*	1955 - 1960		41,000 + 09	in s.main	7,000	17.07	
*	1961		47,000	•	8,000	17.02	•
*	1962	•	59,000		10,000	16.95	
*	1963		71,000	•	12,000	16.90	
•	1964	•	89,000		15,000	16.85	
*	1965				20,000	16.95	
*	1966		118,000		25,000	16.89	
*	1967		148,000		33,206	16.86	
	1968	*	197,000		46,752	16.88	•
	1969	•	277,000		51,665	16.88	
	1970	♣.	306,000	,	54,098	16.91	•
	1971	*	320,000		53,110	19.85	
	1972		267,581	-	63,239	•	•
	1973		265,607		79,405	16.90	
	1974		469,908	·•	41,229	10.16	
	1975		405,862		73,510	13.26	
	1976		554,431		94,180	10.64	
	1977		885,514 A NM	1.2W	88,055		
	1978		861,728			16.22	
	1979	•	669,492	•	108,568	11.18	•
	1980		920,312		102,929	5.24	
	1981	1.	,892,258	t a	99,230	5.53	•
	1982	1.	,643,215 N. Ma	Arc.	90,936	9.16	• •
	1983		819,000		75,000	5.58	55
	1984	. 1.	809,000		101,000	6.28	şυ
	1985	2.	,181,000		137,000	4.44	
	1986	. 3.	,154,000 ¥	a ivt	140,000	3.24	
	1987	2.	, 838,000		109,000	2.56	
	1988	4.	, 020,000 3	-+5.40	103,000	3.41	
	1989	6.	,222,000		212,000	4.36	•
	1990	4,	,591,000		200,000	4.58	
	1991	3	,951,000		181,000	<u> </u>	•
		40	,431,000		2,551,000		

**ESTIMATES** 



YELLOWSTONE RESERVE POTENTIAL

### Yellowstone North Main Deposit

The North Main open pit exploits a north-south striking, west-dipping tabular deposit of relatively pure talc. The deposit has supplied mill feed for the past 10 (?) years and carried the Yellowstone operation during transition of mining from the South Main and North Forty to South 40 pits. Currently, a sizable percentage of the light-colored talc mined at Yellowstone is extracted from the North Main pit. The North Main deposit will continue to be an important source of high-GEB ore until the South 40 pit is fully developed.

CIM has calculated a geologic talc reserve here of 2.53 MM tons. Of this total, they classify 1.07 MM tons as minable. After applying loses resulting from mining and sorting, CIM projects 0.47 MM tons of combined recoverable product from the North Main deposit. A waste-to-product ratio of 13.56:1 is anticipated. CIM hopes to recover 166,300 tons (36%) of product 39 (>88 GEB); 290,000 tons (62%) of product 40/41 (82-87 GEB); and 9625 tons (2%) of product 50 (78-81 GEB).

U.S. Borax <u>in-place</u> ore reserve calculations for the North Main deposit show 0.93 MM tons of combined minable talc at a waste-to-ore ratio of 4.20:1. Calculation of reserves were made by extrapolation of measured cross-sections upon which pit slopes, current topography and drill-defined ore zones were plotted. Since minable ore is intersected in only 7 drill holes having brightness analyses, it is difficult to say with any certainty what percentage of ore will be suitable for specific products. Available data only shows that projected ore will generally meet minimum product 40/41 specifications (>82 GEB).

#### Beaverhead

The Beaverhead deposit is a narrow high grade talc seam exploited for its cosmetic grade talc for the past 20 years with the open pit reaching economic limits in 1987 (when the w/o ratio reached 45:1). The past 5 years have seen continued underground development of the talc zone at depth.

The 500' long talc zone consists of a series of various lenses and bands of variable quality talc with magnesite and chlorite with 10' to 40' (average 18') thick meandering seams of high purity cosmetic grade talc grading 94% with an 87-92 GEB, the basis for the current mining activity.

Production has declined over the past 5 years from 16,000 tons in 1989 to 12,000 tons in 1991. Planned production for 1992 is 8,000 tons. Narrow working faces, poor mine stability, back filling requirements, transport costs, small reserves and limited production rates make this an increasingly expensive ore source. Costs given vary from \$107.00 to \$115.00 per ton, probably \$115.00 delivered to Three Forks mill. Beaverhead costs the Alpine Alabama Mill \$175.00/ton.

Beaverhead ore is being supplanted by imported Australian material delivered to Three Forks for a reported \$125.00 per ton and to Alpine for \$147.00/ton. I would be surprised if much of the small remaining reserve at Beaverhead would be seriously considered for future mining.

Remaining geologic reserves for Beaverhead ore given by CIM as 144,000 tons. Mine management estimates 61,000 tons of recoverable ore is available.

Using a 550' strike length, a 16' average width, a 120' down-dip extrapolation, with 80% mine recovery and assuming 1/3 (east side) is chlorite low grade, yields a 59,400-ton reserve of which perhaps 25,000 tons is available with minimal development.

#### **Chlorite**

#### Antler

The Antler Mine produces approximately 10,000 tons per year for distribution from the Three Forks Mill.

Ore reserves are given as 143,000 tons of +90% chlorite (with an estimated 80% recovery) and 134,000 tons of 80%-90% chlorite (with 30% recovery) with a waste to ore ratio of 4.4:1. This provides a theoretical recovery of 50%.

In 1991, 2,336 tons of +90% ore and 12,604 tons of 40%-90% ore yielded 10,000 tons of product for Three Forks indicating an overall recovery of 66%. However, normal waste and stripping was 136,190 tons yielding a 9:1 waste ore ratio and a 15:1 ratio of total mined rock to product shipped.

In addition, special campaign stripping removed another 495,921 tons of stripping. Further work is needed to fully understand the material balance of the Antler ore body.

### Cottonwood Canyon

At Cottonwood, limined exploration has outlined an interesting chlorite prospect with good tonnage potential given at 250,000 tons. Chlorite encountered so far is darker than Antler but could be used for blending.

### Fair Lady

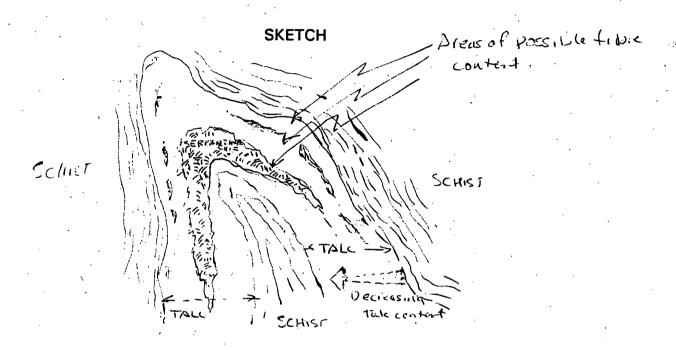
This chlorite prospect near Lida Junction, Nevada was recently optioned. Although not an ideal location, the Fair Lady offers prospects for additional chlorite reserves.

### **Vermont**

Two dry mills and two floatation plants produce products from ore currently shipped from 5 mines operating at three Vermont locations. The ores from the producing deposits provide feed for the dry mills at Columbia and Chester and for floatation plants at Johnson and West Windsor. Other mining sites that are listed as Cyprus assets are in reality deposits that were mined in the past but are now regarded as mined out or are uneconomic at this time or are undeveloped properties with some reserve potential for the future).

The area containing these reserves is all within the Appalachian Ultramafic Belt that trends N-S through the state. In certain areas, these ultramafics host talc carbonate rock developed by the alteration of serpentine bodies. The talc bodies are contained between footwall and hanging wall quartz mica schists, and are typically found within the noses of relict folds within the trend.

Talc alteration typically is strongest at the outer borders of the talc bodies and decreases, gradationally inwards terminating rather abruptly at the boundaries of non-altered serpentinite. Within the talc bodies are found discontinuous bed-like lenticular bodies of chlorite and amphibole minerals, termed locally as "cinders", see sketch.



The ores vary in talc content and brightness based upon the degree of alteration and the percentage of other minerals present, particularly iron. These ore types are classified into A,B,C ores (rock types 10,20,30) based on talc content with attendant brightness estimates.

Deleterious minerals present in the bodies include arsenic sulphides, metallic arsenates, iron and fibrous minerals, principally tremolite and actinolite.

Case@23302825WBBK DDo@34884 FHiddo0951/04232 EFitteredo0951/0423208886920 DDesc Exhibit<del>ExhibititE28111ittoEsatterBaxtOdelaaladola</del>raFlAnRTPageat6eo21364 of 225 TROY MINE JOHNSON MILL HAMMONDSVILLE MINE COLUMBIA MILL WEST WINDSOR MILL 🖒 LUDLOW MINES 📴 HAMM MINE CHESTER MILL WINDHAM GRAFTON PARCEL PARCEL NEWFANE JONES PARCEL MADAME L Marie Co. 10 Co. 200 (17700)

### CYPRUS TALC OPERATIONS-VERMONT

APPALACHIAN ULTRAMAFIC TREND

Arsenic sulphides and arsenates encapsulated in talc grains are found in varying degrees from deposit to deposit and appear to be concentrated in the structurally distributed zones, shears and fractures according to Cyprus staff.

Fibrous amphiboles are noted in footwall and hanging wall zones and in grey talcs near these areas; they are also found within and bordering some of the "cinder" zones and at the contact zone with serpentine.

### Ore Requirements

The desirable qualities of the ores include:

- 1) adequate tonnage
- 2) low stripping ratio and economic mineability
- 3) high talc content (for wet mills particularly)
- 4) talc quality
- 5) high brightness
- 6) low arsenic
- 7) zero fibres in ore to mill
- 8) proximity to mill

The reserves of the Cyprus Vermont talc deposits were reviewed in regard to the above.

#### Troy Mine

The Troy talc deposit is mined solely to provide ore to the Johnson Mill whose +70,000 ton ore requirement is made up of about 50,0000 tons per year from

Troy and about 20,000 tons per year from the Hamm mine, see below. Troy ore recoveries and brightness are too low to be the sole raw material used. The Troy deposit is located some 15 miles from the Johnson mill and the cost of transporting the ore is estimated at \$12.00/ ton vs. \$26.00/ton for the Hamm ore.

The Troy orebody is a tabular body, some 140' thick striking N-S and dipping -45° to the west. The talc is contained in a highly variable mixture of talc, chlorite, magnesite, hematite, limonite, serpenite minerals and quartz veins and the reserve has been divided into four zones based on ore quality. The talc trend has been traced for some 2000' of strike length of which some 900' of strike length (the more northerly segment) has been tested with 8 drill holes on 5 sections, 50'- 150' apart. Given the 2000' apparent strike length and 150' thickness, the zone taken to a depth of 100' has yielded an "ore reserve" calculated by Cyprus at 3,030,000 tons - a number that needs modification in respect to the quality and nature of the talc as contained.

Experience with Troy ores in the Johnson mill has indicated that much of it is too low in talc or too low in brightness for reasonable recoveries of 84 GEB brightness product to be made. During 1991, a concerted effort took place to improve the quality of the Troy ores through selective mining. New reserve estimates have been be made using the percentage of each ore zone estimated to be acceptable as mill feed.

Recent work in the Troy talc deposit has divided the ore reserve into 4 zones based on ore quality.

Zone I - Hanging wall ore - high in talc content, but high in chlorite and  ${\rm Fe_2O_3}$  discolorant; perhaps 50% of this zone can be used as mill feed.

Zone II - Ferric oxide stained zones; too discolored for mill feed; none of Zone II can be used for mill feed.

Zone III - Moderate talc content - 45%-50% with manageable discolorant in the 65% GEB range; perhaps 80% can be used in mill feed.

Zone IV Footwall zone; reasonable talc content in some zones; high specular hematite content removable through magnetic separation; perhaps 50% of Zone III can be used as current mill feed.

Applying the usable percentages to the ore reserve, as it is delineated by the drill holes, yields an indicated mineable, usable reserve of 470,000 tons at a w/o ratio of roughly 1.0 to 1; additional inferred reserves could be perhaps 3 times this number at an increased waste/ore ratio.

An inspection of the stockpiles at the Troy Mine identified 67,000 tons of inventory; 59,000 tons are felt by mill staff to be unusable because of low talc content; quartz; poor color; with 13,000 tons of fines that can be used only when dry. The 8,800 remaining tons of "good ore" is of borderline quality, as current recoveries on Troy ore are around 25%.

At best, the ores from selected ore zones sent to the Johnson mill will average 45% - 50% talc and have a crude GEB of 68%, providing mill recoveries in the 25% - 30% range.

The Johnson mill needs higher grade, higher brightness ore to produce competitive products, and is currently using the Hamm ore for 30% of its mill feed to the floatation process inspite of Hamm's potential arsenic and fibre content problems.

Troy ore has some strengths. It is relatively low in average arsenic content, about 3 ppm, and contains no visible fibrous minerals but Hamm ores (with fibre and arsenic problems) are needed to provide the talc recoveries and brightness needed to produce selected products.

With its main source based in Troy ore, the Johnson mill is currently just getting by; a better, lower cost mill feed than the Troy ore, or the costly distant Hamm ore is needed. More selective mining at Troy was tried in 1991. Ore bleaching has been proposed. Some exploration along the northern Vermont exploration belt has been carried out. The problem remains. There is no known nearby good quality ore for the Johnson Mill.

#### The Hamm Mine

The data on the Hamm mine was accumulated by several companies over a broad time period and was recently summarized by CIM in a generalized computerized reserve that we can't really accept as a reliable basis for an accurate ore estimate.

Our review of the data summary yielded a 3,060,000 ton geologic reserve of talc ore with 2,700,000 tons of waste within the planned pit, but it will require

continued analysis of whatever fundamental base data we can get to properly evaluate the reserve. Our mineable ore reserve calculation to date yields 1,950,000 tons of mineable reserves to the 1600' level at a 1:1 waste to ore ratio.

The Hamm mine has established problems with high arsenic zones and areas with fibrous actinolite, but is mined for its relatively high talc content and high brightness ores.

Figures generated by Cyprus suggest that Hamm contains 1,080,000 tons of ore with a +75% GEB. Total +65% GEB reserves by the same survey indicate 2.5 million tons in reserve.

Of 1991's 104,000 tons of production, 18,000 tons were recorded as directed toward the Johnson Mill in northern Vermont and 38,000 tons were directed to West Windsor. Both of these wet mills had problems with Hamm's high arsenic ores. The balance of 104,000 tons were directed to Chester for dry milled high brightness industrial ores.

#### Hammondsville Mine

Hammondsville is a large but deep reserve mined underground in the past. A maze of underground workings are recorded on the mine plan and various reserves from 4 million tons to 7 million tons are on record. It is accepted, however, that the remaining reserve is too deep for open pit mining and current underground working too expensive for any economic recovery.

### DRY GROUND BRIGHTNESS (Non-Floated)

	Overall	+75	5	(75–6	65)	-65		Mineable*
		% Mineable	Tons	% Mineable	Tons	% Mineable	Tons	Totals (000)
Hamm A	20	20	120	70	420	10	60	600
Hamm B	50	40	600	50	750	10	150	1500
Hamm C	30	40	360	40	360	20	180	900
Totals	100		1,080		1,530		390	3,000
			,			<u>`</u>	<del></del>	
Rainbow A	10	20	15	70	54	10	. 8	77
Rainbow B	50	40	153	50	.192	10	38	383
Rainbow C	40	50	152	40	122	: 10	31	305
Totals	100		320	·	368		77	765
ARCMORA	50		050	90	0000	40	050	0.500
ARGMOB A	40	10 10	250 200	80 80	2000 1600	10	250	2500
ARGMOB C	10	10	50		400	10	200 50	2000
Totals	100	10	500	80	4,000	101	500	500
Totals	, 100	L L	300	<u> </u>	4,000		500	5,000
ARGEOB A	10	10	<b>30</b>	80	240	10	30	300
ARGEOB B	60	10	180	70	1260	20	360	1800
ARGEOB C	30	10	90	40	360	50	450	900
Totals	100		300	40	1,860	50	840	3,000
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BLB A	10	10	13	80	104	10	13	130
BLB B	50	20	130	50	325	30	195	650
BLB C	40	30	156	50	260	20	104	520
Totals	100		299		689		312	1,300
								<u> </u>
TROY A	10	0	0	80	240	20	60	300
TROY B	10	5	15	80	240	15	45	300
TROY C	80	5	120	60	1440	35	840	2400
Totals	100		135		1,920		945	3,000

. 31 In addition, a good portion of the existing mine has been de-stabilized with pillar removal and economic re-entry to the mine is impractical. No one involved with the due diligence evaluation would accord Hammondsville any reserve value.

#### Ludlow Mines

The Ludlow area talc mines extend southward from the Columbia Mill on a meandering trend of the altered ultramafic belt. The mines deposits are the Rainbow, Black Bear, Argonaut, Frostbite, Clifton and Kelly. The Ludlow mines are operated as a unitized project with development and mining moving from deposit to deposit to generate budgeted tonnages of the highest grade and brightest ores possible aimed principally at the dry industrial product mills (141,000 tons at Chester and Columbus) although small tonnages of ore (5,500 tons) do go to West Windsor and Johnson floatation production. Ludlow deposits vary as to content of high brightness and talc content. Most have significant arsenic and fibre bearing areas which must be excluded, see chart on page 31. These mines carry high royalties, the subject of a separate study.

#### Rainbow

The northwest mine, **Rainbow**, is pursued because of its relatively high brightness ore. About half (320,000 tons) of the estimated reserve of 765,000 tons is estimated at +75% GEB. The principal available current resource of high brightness material, the Rainbow is currently removing highwall waste material in preparation for future reserve access at obvious high cost - it must be something special that the mills want.